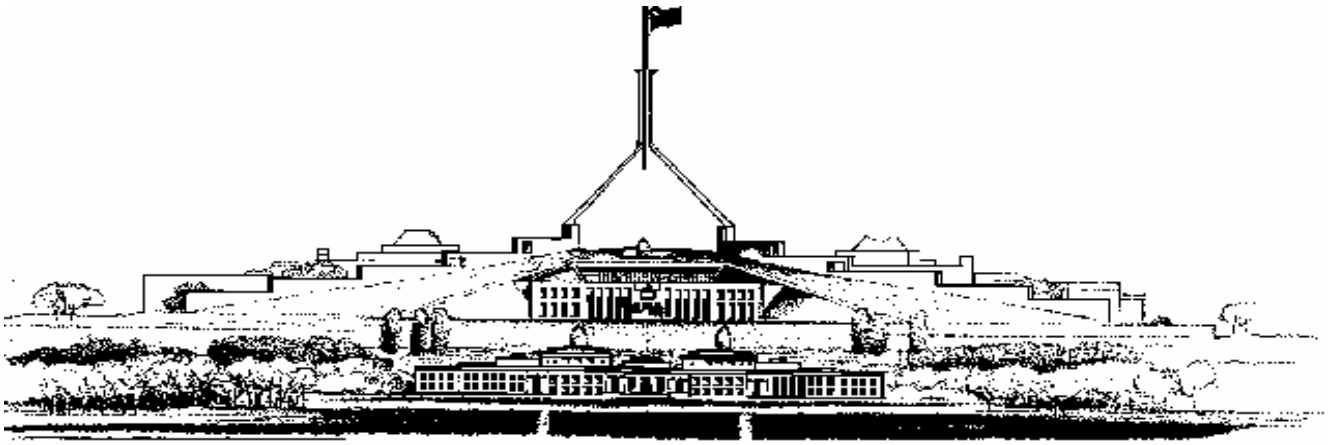
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

Official Hansard

No. 10, 2003

Thursday, 26 June 2003

FORTIETH PARLIAMENT
FIRST SESSION—FIFTH PERIOD

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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SITTING DAYS—2003

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February	4, 5, 6, 10, 11, 12, 13
March	3, 4, 5, 6, 18, 19, 20, 24, 25, 26, 27
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BRISBANE	936 AM
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Thursday, 26 June 2003

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

WORKPLACE RELATIONS AMENDMENT (CODIFYING CONTEMPT OFFENCES) BILL 2003

First Reading

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

Second Reading

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (9.01 a.m.)—I move:

That this bill be now read a second time.

Respect for the law and its institutions is at the heart of any civilized community.

The Commonwealth has a duty to the Australian people and nation to ensure that its laws are upheld, in this case when unlawful industrial action threatens business performance, international competitiveness, and jobs. It also has a duty to protect the integrity of the Australian Industrial Relations Commission and its procedures.

On 19 December 2002, I announced that the Commonwealth would take a much more active role in instigating legal action and pursuing penalties against people and organisations that fail to comply with Federal Court or Industrial Relations Commission orders. The government will make full use of existing laws to seek penalties where there is strong evidence that a person or organisation has defied orders and it is in the public interest to take the legal action.

When I made this announcement I foreshadowed that the government would amend the Workplace Relations Act to clarify the scope of the prohibition against contempt of the commission and update the penalties for that offence.

The Workplace Relations Amendment (Codifying Contempt Offences) Bill 2003 does this.

Section 299 of the Workplace Relations Act creates offences that prohibit conduct in relation to the commission. For example, there are offences of interrupting proceedings or using words calculated to improperly influence members of the commission and witnesses.

Paragraph 299(1)(e) of the Workplace Relations Act is currently a kind of 'catch-all' provision for all other contempt-like behaviour relating to the commission. It makes it an offence to do any act or thing in relation to the commission that would amount to contempt of court if the commission were a court. Contempt of court arises under common law. It enables a court to punish those who interfere with its proceedings or with the administration of justice. Common law contempt does not apply to proceedings of commissions or tribunals, so these bodies are often protected by statutory provisions, sometimes referred to as 'deemed contempt' provisions. Paragraph 299(1)(e) is a deemed contempt provision, because it applies to the commission the whole of common law contempt as it operates with respect to courts.

However, the common law is continuously evolving court-made law and can be difficult to state with precision. The report of the Australian Law Reform Commission on the law of contempt in Australia noted the difficulty in transplanting the technical notion of contempt from its judicial context to the administrative context of commissions, and the failure to clearly identify the conduct that can result in an offence being committed. The report recommended that such provisions be replaced by specific statutory offences that identify contemptuous conduct.

This bill will stipulate the behaviours which will amount to contempt of the com-

mission, clarifying for all parties what constitutes the offences and identifying the necessary mental and physical elements.

I now turn to the specific provisions of the bill.

The bill provides for three new offences that codify certain forms of contempt. The maximum penalty for each of these offences is 12 months imprisonment or a pecuniary penalty of $6,600 for a natural person, and $33,000 for a body corporate.

The first codification offence is engaging in conduct which contravenes an order of the commission. At common law, this is sometimes called 'disobedience contempt'. It recognises the importance of compliance with the commission's orders. Commission orders must be taken seriously and clear sanctions must be available when there is a failure to comply with those orders.

The second codification offence is publishing a false allegation of misconduct affecting the commission. This is drawn from scandalising at common law. Maintaining confidence in the commission must be balanced with freedom of expression and open justice. The bill achieves this by requiring the allegation to be false, and the publication to adversely affect public confidence in the commission as a whole.

The third codification offence is inducing another person to give false evidence. This is a component of interference with proceedings at common law.

The fourth offence in this bill is giving false evidence, which has been included to protect the integrity of the commission and its proceedings. This offence is a form of perjury, rather than common law contempt, and has been included for completeness.

Other offences in the Crimes Act 1900 and the Criminal Code will also continue to apply to conduct in relation to the commission—for example, using dishonest means to influence officials performing public duties, interference with witnesses and destruction of evidence. The bill uses legislative notes to enhance accessibility to these existing offences.

The bill also updates other penalties provided in part XI of the Workplace Relations Act to bring them into line with the penalty levels proposed for the new proposed offences in section 299 and penalties that apply to similar provisions elsewhere. Many of these penalties have not been revised in this way since the 1970s and 1980s, so an update is timely.

The bill will promote respect for the rule of law and better protect the integrity of the commission.

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

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

BUSINESS

Rearrangement

Mr ABBOTT (Warringah—Leader of the House) (9.07 a.m.)—I move:

That business intervening before notice No. 18, government business, be postponed until a later hour this day.

Question agreed to.

Mr ABBOTT (Warringah—Leader of the House) (9.08 a.m.)—I move:

That standing order 48A (adjournment and next meeting) and standing order 103 (new business) be suspended for this sitting.

Question agreed to.

SPECIAL ADJOURNMENT

Mr ABBOTT (Warringah—Leader of the House) (9.07 a.m.)—I move:

That the House, at its rising, adjourn until Monday, 11 August 2003, at 12.30 p.m., unless the Speaker fixes an alternative day or hour of meeting.

Question agreed to.

LEAVE OF ABSENCE

Mr ABBOTT (Warringah—Leader of the House) (9.08 a.m.)—I move:

That leave of absence be given to every Member of the House of Representatives from the determination of this sitting of the House to the date of its next sitting.

Question agreed to.

MIGRATION LEGISLATION AMENDMENT (IDENTIFICATION AND AUTHENTICATION) BILL 2003

First Reading

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

Second Reading

Mr RUDDOCK (Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (9.09 a.m.)—I move:

That this bill be now read a second time.

The Migration Legislation Amendment (Identification and Authentication) Bill 2003 amends the Migration Act 1958 to strengthen and clarify existing statutory powers to identify non-citizens.

Australia, like other countries, faces the challenge of being able to accurately identify persons who seek to enter and remain in Australia, whilst at the same time minimising delays in immigration processing and inconvenience to the person.

Events over recent years have highlighted the increasing importance of ensuring that we can accurately identify persons who seek to enter and stay in Australia. Persons may seek to travel to Australia through our normal visa processes, or they may attempt unauthorised entry without identity documents—the latter, in many cases, having destroyed the documents to avoid accurate identification.

Identity and document fraud facilitates the movement of terrorists and transnational crime to Australia. There are risks to government if these fraud issues are not confronted up front, in that various levels of government and private sector administrative and financial systems rely upon the identities established by DIMIA to confer various benefits and entitlements.

Strong border security and enhanced proof of identity requirements are therefore critical to Australia's national security and to the integrity of its services and programs.

This bill is part of a whole of government approach to tackle the growing incidence of identity fraud worldwide. It seeks to strike a balance between the need for robust identification testing measures in an immigration context and the protection of individual rights.

The bill amends the Migration Act to provide a framework for the collection of personal identifiers such as photographs, signatures and fingerprints from certain non-citizens at key points in the immigration process. The measures proposed in this bill are important and necessary developments in migration law.

The Migration Act already enables the collection of some personal identifiers from non-citizens in certain circumstances.

For example:

- photographs and signatures are required in order to make a valid visa application for some classes of visa;
- prescribed identity documents are required to be provided on entry to Australia in order to obtain immigration clearance; and
- an authorised officer can photograph or measure an immigration detainee for identification purposes.

However, the act as it stands does not define a personal identifier, the circumstances

in which a personal identifier may be required, or how it is to be provided. Nor does it contain safeguards for retention and disclosure.

This bill will implement a more comprehensive and transparent legislative framework for requiring certain non-citizens to provide personal identifiers such as photographs and signatures.

The bill will clarify and enhance the government's ability to accurately identify, and authenticate the identity of, non-citizens at key points in the immigration process in a way that is consistent with the current requirements of the act for proof of identity. At the same time, it will provide protection for non-citizens who are required to provide their personal identifiers.

The bill will set out the types of personal identifiers that are able to be collected from certain non-citizens:

- fingerprints and handprints;
- photographs or other images of the face and shoulders;
- measurements of height and weight;
- audio or video recordings;
- signatures;
- iris scans; and
- other identifiers as prescribed in the regulations.

Allowing new types of personal identifiers to be prescribed in the regulations will permit the adoption of new technologies in a rapidly developing environment. It will also allow the government to respond to new risks or concerns as they arise.

However, the bill specifically excludes the use of intimate test procedures. Consequently, the regulations cannot prescribe a new type of personal identifier if it involves an intimate test procedure. This will exclude, for example, the taking of blood tests or saliva samples.

Broadly, the new provisions will provide a flexible and effective structure. They will enable the application of future technological advances to the accurate identification of persons seeking to enter Australia. They will also facilitate quick and unobtrusive entry processes at Australian borders.

Under the bill, the following non-citizens may be required by regulation to provide specified types of personal identifiers:

- immigration detainees;
- visa applicants and persons to be granted visas;
- non-citizens who enter and depart Australia, or travel on an overseas vessel from port to port in Australia;
- non-citizens in questioning detention; and
- persons in Australia who are known or reasonably suspected to be non-citizens.

The amendments will, where appropriate and necessary, require certain non-citizens to provide specified types of personal identifiers. The types of personal identifiers and the circumstances in which they must be provided will be set out in the regulations.

It is anticipated that the regulations prescribing the situations in which non-citizens must provide personal identifiers, and the types of identifiers required, will largely mirror the current situations where proof of identity is required. However, the bill will allow expansion of these requirements in line with future technological developments.

For example, it is envisaged that photographs and signatures will continue to be required in relation to most visa applications, including applications for visitor visas and most permanent visas. In these cases, a non-citizen will be able to provide these personal identifiers to an officer of the department by attaching their photograph, signing the visa application and submitting it to the department. In the case of protection visa applica-

tions, it is likely that fingerprints, photographs and signatures will be required.

There will be some visa applications for which it is unlikely that any personal identifiers will be prescribed—for example, electronic travel authority visas.

The bill will provide a range of safeguards to non-citizens who are required to provide their personal identifiers.

First, a non-citizen in immigration detention will always be offered the opportunity to have an independent person present during the conduct of an identification test. As long as an independent person is readily available and willing to attend within a reasonable time then the test must be carried out in the presence of an independent person.

In addition, if requested by the non-citizen in immigration detention, the test must be conducted by an authorised officer of the same sex as the non-citizen.

If a non-citizen in immigration detention who is required to provide their personal identifier refuses to do so, and all reasonable measures to carry out the test without the use of force have been exhausted, reasonable force may be used to collect the personal identifier.

Reasonable force will only be used as a measure of last resort and only if authorised by a senior authorising officer. It cannot be used on a minor or an incapable person.

If reasonable force is to be used to obtain the personal identifier from an immigration detainee, an independent person must be present at the test.

All identification tests will be conducted in circumstances that afford reasonable privacy to the non-citizen. Identifying information will be treated in accordance with the Privacy Act 1988.

There are special provisions for minors and incapable persons. For example, minors aged less than 15 and incapable persons can only be required to provide photographs of their face and shoulders, and measures of their height and weight. They cannot be required to provide any other type of personal identifier.

Further, in certain circumstances, minors and incapable persons who are not in immigration detention cannot be tested without the consent of their parent or guardian, or an independent person. No minor or incapable person can be tested unless their parent or guardian, or an independent person, is present.

Reasonable force cannot be used on a minor or an incapable person to obtain their personal identifiers.

Importantly, the bill will protect the privacy of non-citizens by placing limits on the access and disclosure of identifying information provided under the act.

It will be an offence to access identifying information without authorisation. Specified persons will be authorised to access the identifying information for certain purposes—for example, to determine whether a person has previously applied for protection in an overseas country.

Another authorised purpose for access will be decision making under the Australian Citizenship Act 1948. A person who applies for Australian citizenship by grant of a certificate will be asked to provide their personal identifiers. These identifiers will be crossmatched with information held by the department. This will reduce the incidence of identity fraud related activities in citizenship processing.

It will also be an offence to disclose identifying information unless it is a permitted disclosure. For example, it would be permitted to disclose identifying information for the purposes of data matching in order to

identify, or authenticate the identity of, a non-citizen.

Another example of a permitted disclosure includes disclosure to a foreign country, or to law enforcement agencies and border control bodies of a foreign country, to inform their government of the identity of a person being removed or deported from Australia. A further example of a permitted disclosure is disclosure to an international organisation such as the United Nations High Commissioner for Refugees.

In addition, the bill contains provisions to ensure that identifying information will not be disclosed in certain circumstances.

For example, identifying information will not be disclosed to a foreign country if a person has made a protection visa application in relation to that country.

However, this prohibition on disclosure will not apply if the person requests or agrees to return to the foreign country. It will also not apply if the person's application for a protection visa is refused, and has been finally determined.

Generally, identifying information will be destroyed once it is no longer required to be kept under the Archives Act 1983.

However, there will be some circumstances where an individual's identifying information will be kept indefinitely.

One of these circumstances is where the minister is satisfied that the non-citizen is a threat to the security of the Commonwealth or a state or territory, and issues a certificate to that effect.

In summary, the proposals contained in this bill are important and necessary initiatives. They will enhance Australia's ability to combat identity fraud and improve the integrity of migration processes.

Other countries have already responded to the growing incidence of fraud in the immigration context by enhancing their identification and client registration powers. Problems with fraudulent documentation and the need to track histories of identities in client processing has led many countries to introduce identification testing measures similar to those proposed in this bill.

It is crucial that Australia has the opportunity and ability to participate internationally in combating immigration fraud using current and evolving technologies. In this international environment, Australia cannot afford to be seen as a 'soft target' by terrorists, people smugglers, forum shoppers and other non-citizens of concern.

It is for these reasons that I ask that all parties support this bill.

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

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

AGE DISCRIMINATION BILL 2003

First Reading

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

Second Reading

Mr WILLIAMS (Tangney—Attorney-General) (9.21 a.m.)—I move:

That this bill be now read a second time.

This Age Discrimination Bill 2003 implements the government's 2001 election commitment to develop legislation to prohibit age discrimination and will eliminate, as far as possible, age discrimination in key areas of public life.

Need for age discrimination legislation

Despite existing state and territory laws, age discrimination is an increasingly significant problem for our society.

The Nelson report *Age counts* found that age discrimination against older workers is

prevalent and is caused by negative stereotyping of older workers.

The Human Rights and Equal Opportunity Commission's 2000 report *Age matters* also identified many areas in which age discrimination occurs.

These reports—and many others—highlight the negative consequences of age discrimination both on the economy and on the health, financial and psychological well-being of individuals.

The bill is consistent with the international commitment to eliminate age discrimination ensuring the full participation in public life by older persons as reflected in the political declaration adopted by the Second World Assembly on Ageing 2002.

Response to demographic changes in Australia

The social and economic costs of age discrimination will only increase with the demographic changes taking place in the Australian population.

In a speech about the government's strategic priorities in November 2002, the Prime Minister noted:

> ... in maximising labour force participation, it is important that the skills and experiences of older Australians are fully utilised …

This bill will remove barriers to older people participating in society—particularly the work force.

Areas covered by the bill

The bill is consistent with existing Commonwealth antidiscrimination laws and all state and territory antidiscrimination laws.

It covers both direct and indirect discrimination.

The areas of public life covered by the bill include employment; access to goods, services and facilities; access to premises, places and public transport; administration of Commonwealth laws and programs; accommodation; land; and requests for information on which unlawful age discrimination might be based.

Exemptions

All antidiscrimination laws must strike the right balance between prohibiting unfair discrimination and allowing legitimate differential treatment.

The bill takes a commonsense approach and exempts legitimate distinctions based on age.

For example, the bill allows for appropriate benefits and other assistance to be given to people of a certain age—particularly younger and older Australians—in recognition of their particular needs or circumstances.

This is why the bill provides for a positive discrimination exemption for such benefits.

The bill also provides exemptions for age discrimination in superannuation, taxation, health, social security and migration laws. Age differences in these areas are based on distinct and broadly accepted social policy rationales. These laws are subject to ongoing scrutiny—precisely because they deal with such complex social policy issues.

Importantly, the bill does not impose a permanent blanket exemption for Commonwealth laws. However, in addition to the specific exemptions outlined above, the bill does provide a two-year exemption for all Commonwealth laws. This will ensure that the case for further legitimate exemptions (if any) can be tested.

Impact on business

Of course, age discrimination also poses problems for business. Stereotypical views about the capacity of older Australians prevents business from getting the best person for the job.

Age is not an indicator of capacity and must not be used as a blunt proxy for capacity.

This legislation protects against age discrimination and the approach taken is also fair for business. Employers and industry were closely involved in the development of this bill.

The bill ensures on a national basis that all Australians have equality of opportunity to participate in the social and economic life of our country.

Human Rights and Equal Opportunity Commission

The bill confers functions on the Human Rights and Equal Opportunity Commission similar to those that it has in other areas of unlawful discrimination. These functions include inquiring into and conciliating complaints of discrimination, and input into policy development.

Consistent with the government's proposed reforms to the commission, the bill does not provide for an age discrimination commissioner.

The government strongly believes that education about human rights and responsibilities is the most effective way to build respect and tolerance for human rights.

The bill will play a key role in changing negative attitudes about older and younger Australians.

Public consultation

This bill is the result of extensive consultation with the community.

The work of the Core Consultative Group on Age Discrimination Reforms was the blueprint for this bill. This group represented diverse organisations including business and community representatives.

Earlier this year I sought comments from the community on the government's detailed proposals for age discrimination legislation.

I am delighted with the widespread support for the government's decision to introduce age discrimination legislation.

Conclusion

This bill is good news for Australians of all ages.

This bill will send a powerful national message about the importance of eliminating unfair age discrimination.

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

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

AGE DISCRIMINATION (CONSEQUENTIAL PROVISIONS) BILL 2003

First Reading

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

Second Reading

Mr WILLIAMS (Tangney—Attorney-General) (9.27 a.m.)—I move:

That this bill be now read a second time.

I am pleased to introduce the Age Discrimination (Consequential Provisions) Bill 2003 into parliament.

This bill accompanies the Age Discrimination Bill 2003 and provides amendments to other Commonwealth laws which will be necessary following commencement of the Age Discrimination Act.

The main consequential amendments that are necessary concern the Human Rights and Equal Opportunity Commission Act 1986.

In particular, the effect of these amendments will be to extend the Human Rights and Equal Opportunity Commission's education and public awareness role to include addressing the issue of age discrimination.

Further, the commission's role in the investigation and conciliation of complaints of unlawful discrimination based on race, sex or

disability will be extended to include complaints that allege unlawful age discrimination.

The consequential amendments will give the Federal Court and Federal Magistrates Service jurisdiction to deal with applications that make allegations of unlawful age discrimination.

This bill will also amend several other Commonwealth acts that refer to the existing suite of Commonwealth antidiscrimination laws so as to include a similar reference to the Age Discrimination Act.

Schedule 2 of this bill provides amendments that will be necessary when both the Age Discrimination Act and the Australian Human Rights Commission Legislation Act 2003 have commenced.

Conclusion

This bill will assist the implementation of the Age Discrimination Act, which is an important step towards addressing and reducing age discrimination and promoting a fair go for all Australians.

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

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

LEGISLATIVE INSTRUMENTS BILL 2003

First Reading

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

Second Reading

Mr WILLIAMS (Tangney—Attorney-General) (9.29 a.m.)—I move:

That this bill be now read a second time.

The Legislative Instruments Bill 2003 represents the government's continuing commitment to establish a comprehensive regime for the management of, and public access to, Commonwealth legislative instruments.

The bill will introduce a consistent system for registering, tabling, scrutinising and sunsetting Commonwealth legislative instruments.

The concept of a bill establishing a regime for the management of Commonwealth legislative instruments is not new.

The genesis for such a regime is the 1992 report by the Administrative Review Council *Rule making by Commonwealth agencies*.

That report described the framework governing Commonwealth legislative instruments as 'patchy, dated and obscure'.

More than 10 years later, the situation is still the same.

But this is not for the want of effort on behalf of both the government and the opposition in trying to reach an agreement on how to improve this state of affairs.

Many of my colleagues on both sides of this House will recall previous attempts to enact such legislation, with earlier versions of the bill being introduced in 1994, 1996 and 1998.

The failure of that legislation was not due to lack of support.

There is general broad support on both sides of this House for a regime that will make laws accessible to all those affected by them.

As recently as 6 June last year, during the debate on the Statute Law Revision Bill, the shadow Attorney-General, the member for Barton, expressed support for an authoritative store place of Commonwealth legislation in electronic form.

This bill will achieve that aim for legislative instruments.

The government is not, however, simply reintroducing a bill that has previously failed.

The bill has been substantially revised and simplified to take advantage of changes in technology and to remove potentially adverse impacts on efficient and effective administration.

The revision process also involved consideration of issues previously raised by the opposition and the bill takes into account a number of those concerns.

The bill is concerned with laws that are made under a power delegated by parliament.

It is important for the integrity of those laws that there be transparency in their making and that they be publicly available.

This bill will enhance that transparency and availability.

The bill establishes the federal register of legislative instruments, which is the centrepiece of the new regime.

The register will comprise a database of legislative instruments, explanatory statements and compilations, and be publicly accessible via the Internet.

It will be maintained by the Attorney-General's Department.

Users of the register will be able to rely on it as providing accurate and authoritative versions of legislative instruments. The inclusion of compilations so that readers may see at a glance the current state of a particular legislative instrument will make the register particularly user-friendly.

The bill will also enhance consultation processes in the making of legislative instruments. It is already clear government policy that there be relevant and appropriate consultation with interested parties well before any legislation is made.

This policy has been implemented with measures such as the preparation of regulation impact statements and the Office of Regulation Review's role in monitoring that process.

The bill continues to emphasise the importance of consultation by encouraging rule makers to consult experts and those likely to be affected by an instrument before it is made.

To ensure that appropriate consultation is undertaken, the explanatory statement for each legislative instrument must set out a description of that consultation.

If no consultation has taken place, then the explanatory statement must contain an explanation as to why it was not appropriate.

These statements must be tabled with the instrument and will appear on the public register.

Another important feature of this bill is the enhanced parliamentary scrutiny of legislative instruments.

Currently, not all legislative instruments are required to be tabled in parliament.

Under this bill, all registered legislative instruments will be required to be tabled.

This is a major enhancement of parliament's ability to view laws made by the executive.

The bill also sets out the manner in which legislative instruments may be disallowed by the parliament and the consequences of disallowance. A number of targeted exemptions from disallowance are provided by the bill. The bill will not fundamentally alter the balance between the executive and the parliament. The bill will not exempt from disallowance anything that is currently subject to a disallowance process.

The bill substantially re-enacts those parts of the Acts Interpretation Act 1901 that relate to regulations and disallowable instruments

and extends their operation to all legislative instruments.

The final feature of this bill which I wish to emphasise is the sunsetting mechanism.

The bill provides for the sunsetting or the automatic repeal of legislative instruments after a period lasting approximately 10 years from the time that the instrument is registered. Sunsetting will ensure that legislative instruments are regularly reviewed and only remain operative if they continue to be relevant.

This has clear benefits for business and the community.

The bill provides a number of targeted exemptions from the sunsetting provisions because the nature of the instrument would make sunsetting inappropriate—for example, where commercial certainty would be undermined by sunsetting or the instrument is clearly designed to be enduring.

In addition, either house of parliament may, by resolution, exempt nominated legislative instruments from sunsetting.

This addresses a concern previously expressed by the opposition.

The bill provides for a review of the operation of the legislation to take place three years after commencement and for a further review of the general sunsetting provisions 12 years after commencement.

The requirement for a review recognises the importance of ensuring that the bill is operating as intended, in particular that the requirement for rule makers to periodically review and remake legislative instruments is operating in an efficient and effective manner.

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

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

LEGISLATIVE INSTRUMENTS (TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS) BILL 2003

First Reading

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

Second Reading

Mr WILLIAMS (Tangney—Attorney-General) (9.36 a.m.)—I move:

That this bill be now read a second time.

The Legislative Instruments (Transitional Provisions and Consequential Amendments) Bill 2003 deals with a number of consequential and transitional issues to ensure the smooth introduction of the regime set out in the Legislative Instruments Bill 2003 that I have just introduced.

This bill preserves the status quo for non-legislative instruments by making consequential amendments to the Acts Interpretation Act 1901.

The bill also makes a number of consequential amendments to other acts to ensure that they operate consistently with the Legislative Instruments Bill 2003.

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

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

EDUCATION SERVICES FOR OVERSEAS STUDENTS (REGISTRATION CHARGES) AMENDMENT BILL 2003

First Reading

Bill presented by **Dr Nelson**, and read a first time.

Second Reading

Dr NELSON (Bradfield—Minister for Education, Science and Training) (9.38 a.m.)—I move:

That this bill be now read a second time.

Education exports have grown phenomenally in recent years. As Australia's fastest growing export service sector, international education contributes over $5 billion annually to the Australian economy. Australian education has a global reputation for its high quality and innovation. These attributes, combined with competitive tuition fees and a lower cost of living than its major competitors, make the Australian education and training services export industry a thriving, expanding and vital sector in the Australian economy.

As you would have seen from the recent budget announcements, this government is committed to protecting this valuable industry, and assisting its development through strong policies and supportive legislation such as the Education Services for Overseas Students Act 2000.

The ESOS legislation established key national elements for the regulation of the international education and training services industry. It addressed problems facing the industry; the uncertain financial protections for students' pre-paid course fees; the emergence of a small minority of unscrupulous providers; and inconsistent quality assurance.

This bill contributes to this system by creating a new fee structure to replace the current inequitable tiered charges structure for the compulsory annual registration charge payable by all providers registered on the Commonwealth Register of Institutions and Courses for Overseas Students, CRICOS. The new fee structure comprises a $300 base fee per annum together with a charge of only $25 per student enrolment per year. No other changes are proposed and providers will still calculate the number of enrolments as one enrolment for a course over 26 weeks and half an enrolment for a course of less than 26 weeks.

The existing tiered charging structure imposes a relatively greater burden on registered providers with small numbers of overseas students. The new base fee and charge per student enrolment means all providers pay the same, on a per capita basis, regardless of size. It also means that those providers that have the most to gain from our reputation as a high-quality study destination will carry a more equitable burden to ensure the quality, integrity and sustainability of the industry.

Importantly, the bill does not impose any further regulatory burden.

From these changes my department will receive $5.1 million over four years on an ongoing basis for increased compliance and enforcement activity. This will allow it to more proactively use the powers that already exist in the ESOS legislation to more speedily remove those providers who are not acting in the best interests of the industry. It will include, for example, looking at making greater use of provisions to deal with registered providers without the financial capacity to stay in the industry; taking more collaborative action with states and territories; and smarter information matching to better target our compliance activities. More effort will also be put into assisting providers to understand and meet their obligations.

In addition, the changes in this bill will also enable the government to further support and expand Australia's international education industry. Extra funds generated will be apportioned across activities such as quality assurance of providers delivering courses offshore, provider and course benchmarking and providing information to industry and students on the quality assurance framework. This is a very practical demonstration of the government's commitment to facilitating long-term, sustainable growth for this important export industry.

Protection and enhancement of Australia's reputation for providing reliable and high-quality education is crucial for both providers and their international students who rely on the strength of an Australian qualification as they further their careers, both here and overseas.

This bill continues the government's support for a strengthened regulatory framework for Australia's education and training export industry and will ensure its integrity and long-term viability.

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

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

HIGHER EDUCATION LEGISLATION AMENDMENT BILL 2003

First Reading

Bill presented by **Dr Nelson**, and read a first time.

Second Reading

Dr NELSON (Bradfield—Minister for Education, Science and Training) (9.43 a.m.)—I move:

That this bill be now read a second time.

This government is committed to the development of a sustainable, quality higher education sector.

Last year I conducted a review of the higher education sector to determine whether changes were needed to ensure that Australia continues to have a university system that meets the needs of students and the community. In that process, I consulted widely with universities, student groups, unions, the business community and other stakeholders. The consultations produced a broad consensus that the current arrangements for funding universities were not sustainable and would, in the longer term, lead to an erosion of the excellent reputation of Australian universities.

The government therefore announced the Our Universities: Backing Australia's Future package of higher education reforms in the recent budget. To be implemented over the next few years, the reforms will allow the higher education sector to develop in a way that is sustainable, provides high-quality outcomes and is equitable in terms of opportunity.

Laying the foundation for this will be an increase in public investment in the sector of almost $1.5 billion over the next four years. Over the next 10 years, the Commonwealth will provide more than $10 billion in new support for higher education.

There will be more Commonwealth supported student places and more funding for each Commonwealth supported student, linked to improvements in how universities are managed. In addition there are extra funds for regional universities and new schemes and funding to encourage excellence in teaching, more collaboration between institutions and a renewed focus on equity. There will also be new places for national priorities such as nursing and teaching and concessional fee arrangements to encourage people to enrol in these fields.

Under the new arrangements for supporting students, people will have greater choice in how they will access higher education and no Australian will have to pay up-front fees at the point of entry to an accredited institution. There will be new income-contingent loans available to help students paying full fees to public and eligible private higher education providers.

The bill now before us continues to deliver on the initiatives already put in place by this government.

In 2003 the government will provide record levels of funding. Total higher education funding through my portfolio (including the Higher Education Contribution Scheme)

will be $6.4 billion. This is up from $6.2 billion in 2002.

The key indicators for the health of our higher education sector remain positive. University revenues continued to grow in 2002 and are expected to do the same in 2003. The estimated revenue for the sector this year is $11.3 billion, which is $2.7 billion more in real terms than in 1995.

Participation in higher education also continues to increase. There has been significant growth in domestic student numbers to 498,000, up by 75,000 since 1995.

This bill builds on these achievements.

The bill provides $7.3 million in 2003 to assist the Australian National University rebuild its world-class research facilities at Mount Stromlo Observatory following their devastation by the Canberra bushfires on 18 January 2003. The bushfires that swept through the Research School of Astronomy and Astrophysics site destroyed heritage buildings, critical workshops and state-of-the-art telescopes that were also a key tourist attraction. The research school has long been recognised as an important player in national and international astronomy, providing leading edge training for students as well as world-class pure and applied research facilities.

Funding amounts in the Higher Education Funding Act 1988 are being updated to reflect the indexation of grants for 2003 and the latest estimates of HECS liability.

This bill will also amend the Australian Research Council Act 2001. The Australian Research Council plays a key role in the Australian government's investment in the future prosperity and wellbeing of the Australian community. Its mission is to advance Australia's capacity to undertake quality research that brings economic, social and cultural benefits to the Australian community.

The amendments are intended to streamline the administration and financial management of the Australian Research Council, its advisory structures and research programs. They 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.

Other important amendments to this act include increased flexibility in determining research program funding splits to facilitate administration, and the discretion for the minister to delegate certain powers to, and impose conditions on, the Australian Research Council board in order to facilitate administrative efficiencies.

The government's continuing commitment to world-class research is underscored by the five-year $3 billion Backing Australia's Ability initiative which continues to be delivered in full and on time, with $644 million allocated for 2003-04, which represents an increase of around $217 million on the 2002-03 commitment.

One of the largest single initiatives of Backing Australia's Ability is an additional $740 million to research funded through the Australian Research Council. This will double, over a period of five years, the Australian Research Council's capacity to fund grants through the National Competitive Grants Program.

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

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

VOCATIONAL EDUCATION AND TRAINING FUNDING AMENDMENT BILL 2003

First Reading

Bill presented by **Dr Nelson**, and read a first time.

Second Reading

Dr NELSON (Bradfield—Minister for Education, Science and Training) (9.50 a.m.)—I move:

That this bill be now read a second time.

The Vocational Education and Training Funding Amendment Bill 2003 will amend the Vocational Education and Training Funding Act 1992. It provides for supplementing 2003 funding by $24.432 million to provide for normal price movements, as required by the Australian National Training Authority (ANTA) agreement 2001-03.

As a result, total funding for vocational education and training in 2003 will increase to $1,118.452 million, including $104.025 million in growth funding.

The bill also appropriates $1,136.822 million to be provided to the states and territories for vocational education and training in 2004. This includes $104.025 million in growth funding, to be matched by the states and territories under the terms of the proposed ANTA agreement 2004-06.

Over the next four years, the government will spend over $8.4 billion on vocational education and training encompassing $5.04 billion in funds for the vocational education and training sector, most of which is for distribution to the states and territories through the Australian National Training Authority. The Commonwealth will also provide nearly $3 billion for employer incentives, New Apprenticeships support services, and other New Apprenticeships costs of the Commonwealth. In addition there will be $400 million for other vocational training programs funded by the Commonwealth.

Vocational education and training underpins the competitiveness of our industries and supports economic and social development.

The latest available figures indicate that in 2001 there were over 1.76 million students in vocational education and training, equal to about one-eighth of Australia's working-age population. New Apprenticeships have grown to over 391,000 in-training at 31 March 2003, up by 177 per cent on 1995. Today, New Apprenticeships are available in more than 500 occupations; including aeroskills, electrotechnology, process manufacturing, information technology and telecommunications.

This growth has not been at the expense of the traditional trades. There were 137,000 traditional trades New Apprenticeships in-training as at 31 March 2003. 'Trades and related occupations', encompassing trades such as carpenters, plumbers and electricians, make up 35 per cent of New Apprentices in training. Over the last five years, while employment growth in trades and related occupations grew at an average annual rate of 0.8 per cent, New Apprentices in training in trades and related occupations grew at an average annual rate of 1.6 per cent.

We are also seeing record numbers of New Apprenticeships completions. There were 118,500 completions in the 12 months to 31 March 2003, up 19 per cent from the previous year.

Australians of all ages are benefiting from the government's successful vocational education and training policies. In 2001, 24 per cent of vocational education and training students were aged 15 to 19 years. The number of 15- to 19-year-olds in training has grown by 30 per cent since 1998, reflecting

the success of vocational education and training in schools programs, now available in more than 95 per cent of Australia's secondary schools.

In addition, 57 per cent of vocational education and training students were 25 years and over, and 27 per cent were 40 and over.

It is especially noteworthy that the participation rate for people 45 years and over in all education, at 7.1 per cent of the age group in 2000, is the highest of all OECD countries.

There is increasing participation by groups in the community which suffer greater disadvantage. Indigenous people make up 3.3 per cent of all vocational education and training students, and their numbers have increased by 122 per cent since 1995. People living in rural and remote areas make up 33.7 per cent of all vocational education and training students, and their numbers have increased by 49 per cent since 1995.

Record levels of Commonwealth funding are contributing to these considerable achievements.

In 2003-04, the Commonwealth is providing a total of $2.1 billion for vocational education and training. This encompasses an estimated $682.4 million to support New Apprenticeships arrangements, including employer incentives, and an estimated $1.167 billion to the states and territories.

The funding provided through this bill will give certainty to the states and territories and continue to give the Commonwealth influence over national vocational education and training policy, including in relation to New Apprenticeships.

The bill meets the government's commitment under the ANTA agreement 2001 to 2003, to increase the funding for 2003 for real price movements reflected in Treasury indices.

The bill will also provide the initial funding for the first year of the proposed ANTA agreement 2004 to 2006.

The offer for a new ANTA agreement provides funding of $3.574 billion over three years.

The Commonwealth's offer includes $218.7 million in additional funding, compared to 2003 levels, $325.5 million in continued funding for growth, and $119.5 million for Commonwealth priority areas, including older workers and Australians with a disability.

The offer reflects average real growth in recurrent funding of 2.5 per cent per annum.

The total increase in funding over three years is 12.5 per cent, compared to total funding for the 2001-03 agreement.

The proposed agreement seeks matching funds from the states and territories totalling $445 million over its three-year life.

Commonwealth priorities for the next agreement include: improving quality, addressing skills shortages, providing an open and flexible training market, regional development, and strategies for practical reconciliation for Indigenous Australians.

Under the proposed new agreement, the Commonwealth is providing the states and territories with funds from the Australians Working Together—Helping People Move Forward, and the Recognising and Improving the Capacity of People with a Disability initiatives.

Through these measures the Commonwealth will provide $119.5 million over 2004-06 for Commonwealth priority areas, including older workers, people with a disability and parents returning to work. The states and territories have been called on to match this funding. If the states and territories accept the offer, up to 71,000 additional

places will be available in vocational education and training over the next three years.

The provision of the full amount of funding for 2004 is dependent on a new ANTA agreement being negotiated with states, as proposed in the Commonwealth offer. The states and territories have agreed to work collaboratively on developing a new agreement for the period 2004-06. I look forward to a satisfactory outcome of the negotiations.

This bill provides the Commonwealth funding required to support Australia's world-class vocational education and training system. I commend it to the House and present the explanatory memorandum.

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

STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT BILL 2003

First Reading

Bill presented by **Dr Nelson**, and read a first time.

Second Reading

Dr NELSON (Bradfield—Minister for Education, Science and Training) (10.00 a.m.)—I move:

That this bill be now read a second time.

The purpose of the States Grants (Primary and Secondary Education Assistance) Amendment Bill 2003 is to amend the States Grants (Primary and Secondary Education Assistance) Act 2000, to implement the 2003-04 budget initiatives for schools.

This government's eighth budget has allocated record funding of $6.9 billion to Australian schools and students for 2003-04, an increase of $528 million, or 8.3 per cent, over last year. Since 1996, Commonwealth funding for schools and students has grown by more than 93 per cent.

This bill continues a commitment to the capital grants program which supports non-government schools. The bill will appropriate approximately $48.3 million for capital funding in non-government schools over the four years 2004, 2005, 2006 and 2007. This amendment will maintain capital funding for non-government schools in real terms at the 2003 level.

Without this amendment, the level of capital funding for non-government schools for the years 2004 to 2007 will fall more than $11.7 million each year below the 2003 funding level, adversely affecting schools serving the most educationally disadvantaged students.

Over the 2001-04 funding quadrennium, schools will receive over $1.3 billion in Commonwealth funding under the capital grants program. Of this funding, almost $950 million will go to government schools and over $373 million to non-government schools. This means that over 72 per cent of capital funding will go to government schools, a sector that educates 68 per cent of Australia's school students.

The 2003-04 budget continues the Commonwealth's commitment to literacy and numeracy for all Australian students.

This bill provides additional funding of $54.3 million to be provided through the Strategic Assistance for Improving Student Outcomes program and the National Strategies and Projects program over the years 2003 and 2004, to improve the learning outcomes of educationally disadvantaged students, particularly in the key areas of literacy and numeracy.

This funding demonstrates the Howard government's continued support for, and commitment to, the acquisition of vital literacy and numeracy skills by all Australian children. Literacy and numeracy are the most important foundation skills our children need

during their education. The government places high priority on the development of proficiency in these skills to enable young people to utilise education, employment and training opportunities in later life.

There has been good progress in literacy and numeracy, with only one country performing better than Australia in reading and mathematics literacy.

Funding under the Strategic Assistance for Improving Student Outcomes program is used by state and territory education authorities to support critically important and sensitive programs in schools for students requiring additional assistance.

The Commonwealth's National Strategies and Projects program focuses on strategic research and initiatives to support the implementation of the National Literacy and Numeracy Plan.

Strategic funding is used to support the development of national standards and comparable national reporting, including reporting against performance measures contained in the act.

When this government came to office there was no national reporting of literacy and numeracy standards. Through its leadership, we now have full cohort assessment for literacy and numeracy at years 3, 5 and 7.

In terms of reporting benchmarking and assessment data to parents, in 2001 the government made an election commitment to 'secure state and territory reporting to all parents of their child's skills in literacy and numeracy against national standards'.

Currently, Western Australia, the Australian Capital Territory and the Northern Territory provide individual student reports to parents that show the student's result in relation to the national benchmarks. The Victorian and Queensland governments have indicated their intention to do likewise from 2003. I encourage—indeed, call upon—the other states to move forward in providing this important information to parents.

This continued funding for the Commonwealth's literacy and numeracy programs will continue to assist children to attain the necessary literacy and numeracy skills that they will need to prepare them to participate fully in further education, employment and society generally.

This bill confirms the government's commitment to school education and improving outcomes for all students. Quality education is vital to Australia's future. I am committed to continuing to provide substantial levels of funding to produce real results for all students.

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

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

TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003

First Reading

Bill presented by **Dr Nelson**, and read a first time.

Second Reading

Dr NELSON (Bradfield—Minister for Education, Science and Training) (10.07 a.m.)—I move:

That this bill be now read a second time.

The Telstra (Transition to Full Private Ownership) Bill 2003 amends the Telstra Corporation Act 1991 to repeal the provisions that require the Commonwealth to retain 50.1 per cent of its equity in Telstra Corporation Ltd. The bill includes provisions for a framework for future regular and independent reviews of the adequacy of regional telecommunications services.

The bill also amends the Telecommunications Act 1997 to enable the Minister for Communications, Information Technology and the Arts and the Australian Communica-

tions Authority to establish administrative arrangements for the setting of a condition of licence on Telstra for the preparation of local presence plans.

It has been longstanding government policy that Telstra should be transferred to full private ownership, subject to an effective regulatory framework that protects consumers and promotes competition. The government's reform of the telecommunications sector has encouraged greater competition and given Australians access to a wide range of high-quality, innovative and low-cost telecommunications services.

While the government is moving to establish the legislation immediately, it has undertaken not to proceed with any further sale of Telstra until it is fully satisfied that arrangements are in place to deliver adequate telecommunications services to all Australians, including maintaining the improvements to existing services. The independent Regional Telecommunications Inquiry report, released in 2002, found that the government had addressed consumer concerns identified by the independent Telecommunications Service Inquiry conducted in 2000.

The bill provides for the timing of the sale to remain open. The government, however, will be seeking to maximise the returns from the sale of its remaining holdings. The bill retains for the Commonwealth flexibility to develop detailed arrangements for the sale process, which will protect and maximise the Commonwealth's interests. The provisions to facilitate the sale are broadly defined to allow not only conventional single tranche sales but sales effected through a number of tranches, or the use of other market instruments, such as hybrid securities, and authorise any borrowings by government arising from the sale of such securities.

The bill has also been developed in such a manner so that specific obligations that apply to Telstra as a result of its status as a government business enterprise and a Commonwealth-controlled company can be removed as the government divests its holdings in Telstra.

Changes in Telstra's ownership status, however, will not affect the government's ability to protect the interests of consumers, competitors and the public generally. Consumer regulatory safeguards such as the universal service obligation, the customer service guarantee, price controls, network reliability framework, and the Telecommunications Industry Ombudsman, will be maintained into the future.

The bill will also provide additional safeguards for customers in regional Australia.

The first is the ability of the Minister for Communications, Information Technology and the Arts to impose a licence condition requiring Telstra to prepare and implement local presence plans, outlining proposed activities in regional Australia. A provision will be added to the Telecommunications Act to enable the minister or the Australian Communications Authority to establish administrative arrangements for the implementation and monitoring of these plans. This responds to a recommendation in the regional telecommunications inquiry report.

The bill also provides for establishment of a regional telecommunications independent review committee to review telecommunications services in regional Australia within five years of the commencement of the bill.

The bill will provide for the minister to establish a committee comprising a chair and at least two other members, with experience or knowledge of matters affecting regional Australia or telecommunications. The committee will conduct its reviews at intervals of no more than five years after the previous review. The committee will review the adequacy of telecommunications services in

regional, rural and remote Australia, and report its findings to the minister.

The government's policy on foreign ownership of Telstra is unchanged. Telstra will continue to remain an Australian owned and controlled corporation. The maximum aggregate foreign ownership allowed in Telstra will remain at 35 per cent. The maximum individual foreign ownership will remain at five per cent.

The bill has been developed in such a manner so that various directions and reporting provisions associated with majority public ownership can be repealed as the government proceeds with its divestment of Telstra. When the government's holdings have fallen below 50 per cent, various provisions relating to Telstra's status as a government business enterprise will be repealed. This includes, for example, the minister's directions power. When the government's holdings have fallen below 15 per cent, certain additional reporting requirements that apply to Telstra, because of its status as a government business enterprise, will be repealed.

While the government actively supports privatisation of Telstra and the need to continue to protect the rights of customers, it is also aware of the need to protect the rights of Telstra's employees, and members of the community who have outstanding disputes with Telstra. The bill sets out transitional provisions that will:

(a) require Telstra to continue to deal with any requests under the Freedom of Information Act 1982 and related subordinate legislation for access to a document in the possession of Telstra that have not been finally disposed of when Telstra ceases to be Commonwealth controlled and preserve the rights of persons making such requests under the Administrative Appeals Tribunal Act 1975;

(b) enable the Commonwealth Ombudsman to continue to investigate any complaints in relation to action taken by Telstra that have not been finally disposed of when Telstra ceases to be Commonwealth controlled;

(c) preserve the operation, in respect of events occurring prior to Telstra ceasing to be Commonwealth controlled, of the Crimes (Superannuation Benefits) Act 1989 and Director of Public Prosecutions Act 1983;

(d) preserve the accrued long service leave benefits of Telstra employees earned under the Long Service Leave (Commonwealth Employees) Act 1976 and related subordinate legislation;

(e) preserve, for up to 12 months, the rights of female Telstra employees to access provisions under the Maternity Leave (Commonwealth Employees) Act 1973 and related subordinate legislation;

(f) ensure that, from the cessation of Commonwealth control, Telstra's liability in respect of injuries suffered by employees prior to 1 July 1989 continues under section 128A of the Safety, Rehabilitation and Compensation Act 1988; and

(g) remove Telstra from the operation of the Occupational Health and Safety (Commonwealth Employment) Act 1991 from the cessation of Commonwealth control.

To sum up, this legislation is part of a package that delivers on the government's election commitments—

Mr Snowdon—It sells out regional Australia.

The DEPUTY SPEAKER (Mr Jenkins)—Order!

Dr NELSON—to ensure that Australia's telecommunications system combines the best elements of competition and customer service.

Mr Snowdon—It sells out the bush.

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

Mr Snowdon—Well, it is true. It sells out the bush. It sells out Aboriginal people—

The DEPUTY SPEAKER—Order! The honourable member for Lingiari will cease interjecting.

Dr NELSON—It also provides an opportunity for Australians to invest further in Telstra and allows government to focus on regulating the telecommunications industry.

It supports maintenance of service quality and protection of existing consumer rights, regardless of Telstra's ownership. I present the explanatory memorandum to the bill.

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

COMMUNICATIONS LEGISLATION AMENDMENT BILL (No. 2) 2003

First Reading

Bill presented by **Dr Nelson**, and read a first time.

Second Reading

Dr NELSON (Bradfield—Minister for Education, Science and Training) (10.17 a.m.)—I move:

That this bill be now read a second time.

The Communications Legislation Amendment Bill (No. 2) 2003 amends the Telecommunications Act 1997, the Australian Security Intelligence Organisation Act 1979 and the Administrative Decisions (Judicial Review) Act 1977 to enhance the security of Australia's telecommunications services and networks and to improve existing arrangements relating to call data disclosure and interception services.

The Telecommunications Act provides the legislative basis for Australia's open and competitive telecommunications industry. The telecommunications industry is attracting significant new investment which increases the potential for national security and law enforcement issues to arise.

Under the Telecommunications Act a person may apply to the Australian Communications Authority (the ACA) for a carrier licence so long as the person is a constitutional corporation, a partnership of such corporations or a public body. Under the existing framework in the Telecommunications Act, consideration of national security and law enforcement interests is currently not required as part of the carrier-licensing process. The ACA is not required to consult with the relevant national security and law enforcement agencies prior to issuing a carrier licence to an applicant and, whilst the grounds for refusing to grant a carrier licence are not limited under the Telecommunications Act, the ability to refuse to grant a carrier licence on national security grounds is not provided for expressly.

The bill amends the Telecommunications Act to ensure that national security and law enforcement interests are considered in the carrier-licensing process by: (a) requiring the ACA to consult with the agency coordinator in the Attorney-General's Department prior to granting a carrier licence; and (b) allowing the Attorney-General, in consultation with the Prime Minister and the minister administering the Telecommunications Act, to direct the ACA to refuse to grant a carrier licence on national security grounds.

The agency coordinator is a senior official in the Attorney-General's Department who liaises with national security and law enforcement agencies. The agency coordinator will be able to extend the consultation period up to a maximum of 12 months in four three-month periods to deal with any security issues raised by an application for a carrier licence. For example, it may be possible to enter into a contractual arrangement with a carrier licence applicant during this period to address security concerns.

The provision of extended consultation periods will allow any security risks that

have been identified to be effectively managed within the carrier-licensing process to ensure that the need for the Attorney-General to exercise the power to issue a direction to the ACA would arise only in extreme circumstances where the risk to national security could not be effectively managed though other mechanisms, such as a contractual arrangement.

The bill will also allow the Attorney-General, again in consultation with the Prime Minister and the minister administering the Telecommunications Act, to direct a person not to use or supply, or to cease using or supplying, a carriage service or all carriage services to itself or any other person on national security grounds. The direction may be issued with respect to particular individuals, groups or existing telecommunications industry participants whose activities pose a risk to national security.

Similarly to the power to direct the ACA to refuse a carrier licence on national security grounds, it is expected that the Attorney-General would exercise the power to direct a person to cease using or supplying a carriage service only in extreme circumstances where the risk to national security cannot be managed effectively through other mechanisms.

The bill amends the Telecommunications Act to allow for the application charge for a carrier licence to be refunded to the applicant if an application is refused by the ACA or upon review. There is no current provision in the Telecommunications Act for the refund of a carrier licence application charge. While there has not been a carrier licence refusal to date, the new provisions in the bill that will allow the Attorney-General to issue a written direction to the ACA to refuse to grant a carrier licence on national security grounds could increase the likelihood of a licence being refused.

The bill amends the Australian Security Intelligence Organisation Act (the ASIO Act) to enable a carrier licence applicant, a carrier or a carriage service provider to apply to the Administrative Appeals Tribunal for review of an adverse or qualified security assessment that ASIO has provided to the Attorney-General. It is expected that ASIO would provide a security assessment to the Attorney-General in connection with the Attorney-General's consideration of whether to issue a direction on national security grounds to the ACA to refuse to grant a carrier licence or to a person not to use or supply, or to cease using or supplying, a carriage service or all carriage services to itself or any other person. The proposed amendments to the ASIO Act will also require the Attorney-General to notify a person of an adverse or qualified security assessment in respect of that person except where such notification would be contrary to the interests of national security.

The bill amends the Administrative Decisions (Judicial Review) Act, the AD(JR) Act, to exclude from judicial review under the AD(JR) Act decisions made by the Attorney-General under the proposed amendments to the Telecommunications Act on national security grounds. The exclusion of judicial review under the AD(JR) Act is consistent with existing exclusions under the AD(JR) Act for similar decisions based on national security considerations. Judicial review will still be available in the Federal Court under section 39B of the Judiciary Act and in the High Court under section 75(v) of the Constitution.

This bill also contains several other minor amendments to the Telecommunications Act to improve the efficiency and effectiveness of current call data disclosure and interception arrangements. The amendments will:

(a) accommodate current law-enforcement agency management structures in the defini-

tion of 'senior officer' in subsection 282(10) of the Telecommunications Act;

(b) clarify that, when executing a telecommunications warrant, carriers and carriage service providers should provide all relevant information associated with that communication, along with the call content;

(c) clarify that the capability to intercept a communication passing over a network, facility or carriage service is the fundamental legal obligation to be met by carriers and carriage service providers under part 15 of the Telecommunications Act;

(d) impose a 60-day time frame for the agency coordinator to consider applications by carriers and carriage service providers to be exempted from the obligation that their networks, facilities and carriage services have an interception capability;

(e) require carriers and nominated carriage service providers to include in their interception capability plans statements about current and continued compliance with their interception obligations, and to require interception capability plans to be signed by, or on behalf of, the chief executive officer of the carrier or nominated carriage service provider;

(f) change the date on which carriers and nominated carriage service providers must lodge their interception capability plans with the agency coordinator and the ACA from 1 January each year to 1 July each year; and

(g) change references to the Criminal Justice Commission of Queensland to the Crime and Misconduct Commission of Queensland which was established in 2002.

The package of amendments contained in the bill will lead to more secure telecommunications networks and services and improved arrangements for the provision of assistance to law enforcement agencies by telecommunications carriers and carriage service providers. I present the explanatory memorandum to this bill.

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

FUEL QUALITY STANDARDS AMENDMENT BILL 2003

First Reading

Bill presented by **Dr Stone**, for **Dr Kemp,** and read a first time.

Second Reading

Dr STONE (Murray—Parliamentary Secretary to the Minister for the Environment and Heritage) (10.28 a.m.)—I move:

That this bill be now read a second time.

The Fuel Quality Standards Amendment Bill 2003 fulfils the government's commitment made in April this year to empower the Commonwealth to require labelling of fuels, as well as to ensure that the key offences under the act are able to be properly enforced.

The Howard government's Fuel Quality Standards Act 2000 is a landmark piece of environmental legislation for Australia. It established, for the first time in this country, a national regulatory regime for fuel quality. That regime is backed up by a comprehensive monitoring and enforcement program that is among the best of its kind in the world. The act ensures that key fuel parameters are regulated in a uniform manner throughout Australia and enables the Commonwealth to progressively tighten standards to achieve better environmental and operational outcomes.

The amendments in this bill will complement and enhance the existing regulatory regime by providing a power to introduce and enforce uniform national fuel labelling where such labelling is needed in the public interest. They will also ensure that the objectives of the act can be achieved, by declaring

key offence provisions to be offences of strict liability.

The bill establishes a comprehensive and transparent fuel labelling framework that fits comfortably within the existing regime of fuel quality regulation. This framework will provide for determinations to be made that set fuel quality information standards for specified supplies of specified fuels. This is a flexible mechanism and, in the first instance, will be used to set parameters that will apply to the labelling, at the point of sale, of ethanol blends. This step has been promised by the government, and represents a crucial element in restoring consumer confidence in this renewable fuel.

Each fuel quality information standard will set out the type and supply of fuel to which it applies, the information that must be provided with regard to the fuel, and the manner in which it must be provided. For example, a standard could be set in relation to retail sales of petrol at service stations, and require that labels stating the octane rating of the fuel be attached to each bowser. The standards would be enforced through Environment Australia's existing national fuel monitoring program.

Each fuel quality information standard could also impose information requirements on suppliers at other points in the fuel chain. In most cases this is likely to be an obligation on fuel suppliers to provide retailers with the information they need in order to comply with the standard—for example, whether or not the fuel contains components that are subject to a labelling standard.

Consistent with existing provisions for fuel quality standards, the bill also allows for variations to the fuel quality information standards to be granted in cases where strict application of the standard would be inappropriate or excessively burdensome, and where the objectives of the legislation would not be compromised.

To ensure transparency, the bill provides that fuel quality information standards and variations to these standards cannot be made without first consulting the Fuel Standards Consultative Committee, a body established under the existing act to provide a voice to the many stakeholders affected by fuel regulation.

These amendments acknowledge that there are situations where consumers have a right to be informed about the attributes of the fuel they are buying and, in such cases, they need to be confident that this information will be consistent and reliable, even as they travel across state borders. This is something that cannot be achieved by relying on state labelling powers.

This bill also amends several key offences in the act related to the supply of fuel that does not meet the Australian specifications. It is proposed that the key offences of supplying 'off-specification' fuel; altering fuel so that it does not meet the standards; and supplying or importing prohibited additives be made strict liability offences. Similarly, the new offences relating to the supply of fuel that does not meet the fuel quality information standards will be strict liability offences. This will ensure that offenders can be properly prosecuted and cannot avoid conviction by simply denying that they had the requisite knowledge of the standards. These amendments are crucial to ensure that the objectives of the act can be achieved.

This bill affirms the government's commitment to a uniform, enforceable national fuel standard regime that will ensure our move to world's best practice fuel standards, supported by best practice monitoring, compliance and enforcement practices and protocols. Together, these enable consumers to be

confident about the quality of fuel they are purchasing.

I present the explanatory memorandum.

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

FAMILY AND COMMUNITY SERVICES (CLOSURE OF STUDENT FINANCIAL SUPPLEMENT SCHEME) BILL 2003

First Reading

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

Second Reading

Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (10.34 a.m.)—I move:

That this bill be now read a second time.

This bill closes the Student Financial Supplement Scheme to new loans from 1 January 2004.

The voluntary scheme was established in 1993 during a climate of high interest rates and high youth unemployment, and when few commercial loans were available to students. Today students have access to commercial loans at competitive interest rates, campus loans and more flexible income support payments, such as youth allowance, introduced by this government in 1998. Youth allowance provides flexible benefits such as the $500 advance, higher income free area, student income bank and access to rent assistance. Since 1998, take-up rates for the scheme have decreased by one-third.

The Student Financial Supplement Scheme comes at a high cost to students and Australian taxpayers. The Australian Government Actuary estimated the doubtful debt rate for the scheme may be as high as 56 per cent, meaning that more than 50 per cent of loans may never be repaid. The structure of the scheme requires students to trade in $1 of their income support for $2 of loan, all of which is repayable and adjusted according to the consumer price index. The trade-in element of the scheme is what has been of greatest concern to students and student organisations.

The Student Financial Supplement Scheme is a costly, poorly targeted and inefficient way to reduce financial barriers to education. The scheme is administratively cumbersome requiring customers to deal with three organisations: the Commonwealth Bank of Australia and Centrelink during the contract period and the Australian Taxation Office when the loan is repaid via the tax system. The Commonwealth bears the costs associated with providing the loan.

This bill provides that no new loans will be issued from 1 January 2004. The scheme provisions have been retained in the Social Security Act 1991 to provide existing and previous loan customers, officers managing the scheme and review bodies with immediate access to the relevant legislative provisions. The repayment arrangements of the scheme will continue to apply.

I present the explanatory memorandum to the bill.

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

STUDENT ASSISTANCE AMENDMENT BILL 2003

First Reading

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

Second Reading

Mr ANTHONY (Richmond—Minister for Children and Youth Affairs) (10.37 a.m.)—I move:

That this bill be now read a second time.

The Student Financial Supplement Scheme is a voluntary loan scheme whereby eligible tertiary students trade in income support in return for a loan, on the basis of a $1 trade

for a $2 loan. The money traded in becomes part of the loan, all of which is repayable.

The Student Financial Supplement Scheme is not delivering good outcomes for students or Australian taxpayers.

The bill amends the Student Assistance Act 1973 to reflect the government's decision to close the Student Financial Supplement Scheme on and from 1 January 2004 in respect of ABSTUDY students while a separate bill will amend the Social Security Act 1991 to close the scheme for other tertiary students.

The closure of the Student Financial Supplement Scheme is in response to increasing levels of bad and doubtful debt and reduced take-up of loans. The Australian Government Actuary has estimated that some 84 per cent of total loans may never be repaid.

The Student Financial Supplement Scheme was introduced in a climate of high youth unemployment, high interest rates and when few commercial loan packages were available to students.

The take-up of the Student Financial Supplement Scheme has declined over the years and since 1 January 2000, rent assistance has been payable for full-time students in receipt of the Abstudy Living Allowance.

The repayment provisions of the Student Financial Supplement Scheme will continue to apply.

The bill also makes a minor technical amendment to the act by inserting an express provision to permit the incorporation of an instrument 'as in force or existing from time to time' for the purposes of section 49A of the Acts Interpretation Act 1901. This will eliminate the need to make new regulations under the act whenever guidelines for the non-statutory Abstudy and Assistance for Isolated Children schemes are altered.

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

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

STATISTICS LEGISLATION AMENDMENT BILL 2003

First Reading

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

Second Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.40 a.m.)—I move:

That this bill be now read a second time.

The Australian Bureau of Statistics (ABS) has a long tradition and history. The statistics it produces inform discussion and debate within government and the wider community. Indeed, information produced by the ABS is fundamental to the democratic process.

The ABS enjoys the trust and confidence of the people and businesses who provide information about themselves and their activities. It is this information that allows us to make decisions about the economy and decisions about the services that people need to sustain and enhance their wellbeing.

The ABS appreciates and acknowledges the ongoing contribution of businesses and the public who assist with its censuses and surveys.

Fundamental to the trust of the community in the ABS is the knowledge that the ABS will protect their data and keep it confidential. This protection is underpinned by a secrecy provision in the Census and Statistics Act 1905. Every ABS officer is required to give an undertaking of fidelity and secrecy when they join the bureau. This is a lifelong commitment that goes beyond their tenure at the ABS. The bureau's reputation for the protection of data is untarnished.

I now turn honourable members' attention to the substance of this bill before parliament—the Statistics Legislation Amendment Bill 2003. Its main purpose is to rectify a number of technical deficiencies in statistics legislation. These arose as an unintended consequence of previous amendments to the Australian Bureau of Statistics Act 1975.

Deficiencies arising from amendments in 1987 and 1999 have placed in doubt whether all current and former ABS staff are covered by the secrecy provisions of the Census and Statistics Act 1905. This bill seeks to rectify this. It also seeks to validate practices of the ABS since the deficiencies arose. This will put beyond doubt the protection of ABS data absolutely, as parliament has intended.

The ABS has been described by the former head of the United Nations Statistics Division as the 'world's best international statistical citizen'. As a consequence, from time to time other agencies who are interested to learn from the ABS seek the opportunity for their staff to work with the ABS for a period of time. Similarly, the ABS occasionally has the opportunity to benefit from the particular expertise of staff of other agencies and international organisations. This bill also makes provision for the ABS to second officers for these purposes.

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

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

FINANCIAL SERVICES REFORM AMENDMENT BILL 2003

First Reading

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

Second Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.44 a.m.)—I move:

That this bill be now read a second time.

The Financial Services Reform Act 2001 (FSR Act) has put in place a harmonised licensing, disclosure and conduct regulatory framework for financial products, markets and service providers.

These reforms are intended to promote investor protection and improve market efficiency. The reforms embodied in the FSR Act, once fully in place, will deliver significant benefits to both consumers and industry participants.

The FSR Act provides consumers with enhanced protection due to improved conduct and disclosure requirements. The reforms will provide an environment in which investors can be confident that those who provide financial services and products are effectively regulated and have appropriate training, competence, skill and integrity.

The enhanced disclosure regime is designed to ensure that investors will be better able to compare products and services and make investment decisions through the provision of timely, reliable and clear information.

The reforms introduced by the FSR Act also provide significant benefits to industry participants through establishing a common regulatory regime across all financial services. They replace a fragmented patchwork of industry specific arrangements with a uniform framework that allows the provision of innovative financial services and compliance with only one regime across a variety of financial products.

In recognition of the magnitude and scope of the changes and the work entailed in their implementation, existing industry participants were provided a two-year transition period to move into the new regime commencing on 11 March 2002. We are now over halfway through this transition period.

The government, the financial services and consumer protection regulator, the Australian Securities and Investments Commission (ASIC), and industry have all been working together to ensure that transition is as smooth as possible and the benefits of the FSR regime are realised.

The transition period has uncovered certain issues which industry wish to resolve before transitioning to the FSR regime.

The government and ASIC have been working very closely with industry members to clarify such issues. To this end the government has developed several batches of corporations regulations to promote certainty and facilitate industry transition to the FSR regime.

ASIC has also released extensive guidance for industry participants across a wide range of topics, through ASIC policy statements, 'frequently asked questions' and information releases.

The work done by the government and ASIC to date does not in any way alter the fundamental framework of the FSR Act—it merely clarifies and refines the operation of the regime.

While significant work has been done, some of the issues raised by industry can only be dealt with through amendments to the legislation itself.

The amendments contained in this bill are largely technical in nature, rather than a shift in the policy underlying the FSR Act. That said, many financial industry participants are reluctant to transition to the new regime without the resolution of certain issues dealt with in this bill.

The government believes the initiatives in this bill, along with other steps taken to date, will provide greater comfort and certainty for industry participants to transition into the FSR regime by 11 March 2004.

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

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

TAXATION LAWS AMENDMENT BILL (No. 7) 2003

First Reading

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

Second Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (10.48 a.m.)—I move:

That this bill be now read a second time.

This bill makes amendments to the income tax law and other laws to give effect to several taxation measures.

Schedule 1 to this bill will provide tax exemptions for Australian residents who receive compensation payments from an overseas fund relating to the Second World War.

A number of overseas funds are making compensation payments to Australian residents who suffered during the Second World War, or to a deceased resident's surviving relatives or descendants. The payments are intended to compensate for persecution suffered or property lost during the Second World War.

Under current income tax law some of these payments are exempt from tax but others are taxable.

This measure ensures that payments received by Australian residents from foreign funds in connection with persecution suffered or property lost during the Second World War are tax-free.

Schedule 2 to this bill updates the lists of specifically listed deductible gift recipients in the Income Tax Assessment Act 1997. It adds to these lists new recipients announced since October 2002. Deductible gift recipient

status will assist these organisations to attract public support for their activities.

Schedule 3 simplifies the listing in the tax law of these specifically listed deductible gift recipients. It allows any new specifically listed deductible gift recipients to be prescribed in regulations. It also provides for the transfer of all existing specifically listed deductible gift recipients from the Income Tax Assessment Act 1997 to regulations.

This simplification is part of the government's response to the *Report of the inquiry into the definition of charities and related organisations*. It will allow continued scrutiny by the parliament but will make legislative amendments concerning specifically listed deductible gift recipients less administratively costly and more timely.

This measure also allows deductions for cash donations to deductible gift recipients to be spread over a period of up to five years. This will ensure that cash and property gifts are treated similarly, and will make it more attractive for taxpayers to make donations to deductible gift recipients earlier. Deductible gift recipients that receive funds earlier from donors will benefit from the amendments.

Schedule 4 will amend the Crimes (Taxation Offences) Act 1980 to correct a technical deficiency with the deeming mechanism in this act, and to include Criminal Code harmonisation amendments to clarify the interpretation of offences under the Criminal Code.

Schedule 5 introduces a measure which will allow certain entities with foreign losses to be excluded from a consolidated group on a transitional basis, notwithstanding that they are wholly owned by the group's head company. Entities will have up to three years to recoup their foreign losses prior to joining the group, rather than being subject to consolidation rules which may impact harshly in some instances.

Schedule 6 will make amendments to ensure that the goods and services tax interacts appropriately with the consolidation regime. In particular, the amendments will provide that certain supplies made as a consequence of the statutory operation of the consolidation law or as a result of agreements that are entered into because of consolidation will not be taxable supplies. These changes will ensure that entities are afforded similar goods and services tax treatment under the consolidation regime as the treatment they received in a pre-consolidation environment.

Schedule 7 amends the Income Tax Assessment Act 1997 to include imputation rules for life insurance companies, replacing the current rules set out in the Income Tax Assessment Act 1936. The amendments form part of the ongoing implementation of the government's reform of business taxation in respect of the imputation system.

Broadly, the provisions are concerned with setting out the circumstances when franking credits and debits arise in the franking accounts of life insurance companies from the payment and refund of tax or the receipt of franked dividends.

The provisions will apply from 1 July 2002, consistent with the commencement of the simplified imputation system. The life insurance industry has been involved in the development of these provisions.

Schedule 8 amends the overseas forces tax offset provisions of the Income Tax Assessment Act 1936 to exclude periods of service for which an income tax exemption for foreign employment income is available.

Schedule 9 to this bill amends the Income Tax Assessment Act 1997 to provide an automatic capital gains tax rollover for financial service providers on transition to the financial sector reform regime during the financial sector reform transitional period.

The capital gains tax rollover will ensure that the capital gain or capital loss that would otherwise be made when the original asset comes to an end is deferred until a CGT event happens to the replacement asset.

This measure will encourage financial service providers to move to the financial sector reform regime by removing potential capital gains tax impediments during the financial sector reform transitional period.

Schedule 10 changes the current company tax treatment of foreign limited partnerships and US limited liability companies to partnership treatment. This will alleviate unintended and inappropriate outcomes from the current treatment, particularly under the international tax rules.

In order to prevent investors with limited liability obtaining unlimited access to tax losses relating to these entities, which would occur under the normal partnership rules, the government has introduced a limit on the losses that may be claimed. The limit is based upon the amount invested in the foreign entity by the investor.

The new rules will generally apply from the 2003-04 income year. In addition, changes are being made to the way in which these foreign entities have to be treated for some past income years under the international tax rules. This will remove considerable uncertainty surrounding these years and lead to fairer results.

The new rules will provide a better alignment of Australian and foreign tax rules for Australians operating offshore.

Lastly, schedule 11 to this bill makes a number of technical amendments to the Income Tax Assessment Act 1936, the Income Tax Assessment Act 1997 and other tax related legislation.

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

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

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

NON-PROLIFERATION LEGISLATION AMENDMENT BILL 2003

First Reading

Bill presented by **Mrs Gallus**, and read a first time.

Second Reading

Mrs GALLUS (Hindmarsh—Parliamentary Secretary to the Minister for Foreign Affairs) (10.56 a.m.)—I move:

That this bill be now read a second time.

The Non-Proliferation Legislation Amendment Bill 2003 strengthens Australia's efforts to prevent the proliferation of weapons of mass destruction. While it focuses primarily on enhancing domestic arrangements, it will, through the examples it sets, also contribute to parallel international objectives.

The bill will amend the Nuclear Non-Proliferation (Safeguards) Act 1987, the Comprehensive Nuclear Test-Ban Treaty Act 1998, and the Chemical Weapons (Prohibition) Act 1994 which implement a range of Australian policies and treaty commitments promoting nonproliferation of nuclear and chemical weapons.

The measures in this bill will strengthen Australia's arrangements for the protection of nuclear facilities, material and related information, and for application of nonproliferation safeguards to them. They will also enable Australia to bring into force legislation banning nuclear weapon tests ahead of entry into force of the Comprehensive Nuclear Test Ban Treaty, and will implement changes to the machinery of government which will improve the effectiveness of each of the acts affected.

The Nuclear Non-Proliferation (Safeguards) Act gives effect to Australia's safe-

guards commitments under the Nuclear Non-Proliferation Treaty, under our safeguards agreement with the International Atomic Energy Agency, and under the Convention on the Physical Protection of Nuclear Material. Further, it provides a framework for implementing our network of bilateral agreements concerning transfers of nuclear items.

These arrangements continue to serve Australia well. However the measures in this bill increase their effectiveness, important at this time of proliferation uncertainty.

The class of material which may be declared as associated material and thus regulated by the Nuclear Non-Proliferation (Safeguards) Act is broadened. This will ensure effective controls on the full range of materials which are specially suited for use in nuclear fuel cycle activities or prohibited activities such as the production of nuclear weapons.

A permit requirement is introduced for the establishment of any new nuclear or related facility. This will ensure that nonproliferation safeguards measures can be fully integrated into the design of any new facility. The new provision will also underscore Australia's ability to apply the principle that planned nuclear activities are fully transparent to the International Atomic Energy Agency.

Measures to prevent unauthorised communication of information that is proliferation sensitive, or that is critical to the physical security of nuclear material, are strengthened by the introduction of two new offences. The first new offence applies to conduct which breaches procedures set as a permit condition and intended to protect proliferation sensitive information. The other new offence applies to the unauthorised communication of information which could prejudice the physical security of nuclear material.

In order to improve the security of locations where nuclear or related material is held, the bill introduces provisions which will allow a permit under the Nuclear Non-Proliferation (Safeguards) Act to prescribe an area to which the permit holder must restrict access. A new offence is introduced for unauthorised entry to such an area.

In strengthening measures designed to reduce the risk of proliferation, this bill updates penalty provisions contained in the Nuclear Non-Proliferation (Safeguards) Act to bring the setting of fines into line with current legislative practice.

The Comprehensive Nuclear Test-Ban Treaty Act 1998 gives effect to Australia's obligations under the CTBT. The treaty bans nuclear weapon test explosions or any other nuclear explosions, and requires that a global monitoring network is established to verify compliance with the treaty. In addition, states parties are obliged to allow on-site inspections to clarify whether or not a nuclear explosion has been carried out in violation of the treaty.

While the CTBT has widespread support, with over 100 nations having ratified to date, the very specific requirement that 44 particular countries must ratify to trigger entry into force remains more distant than the government would wish. Australia continues strongly to support and promote entry into force of the CTBT, and already has in place 15 of the 21 treaty monitoring facilities it will host.

This bill offers an opportunity to make one additional and very clear gesture of support for the test ban. The bill amends the commencement provisions of the Comprehensive Nuclear Test-Ban Treaty Act so that key provisions of the act can be proclaimed in advance of entry into force. When these amendments are in place the government will immediately bring into effect provisions

which ban nuclear testing in Australia and any contribution to such testing by an Australian citizen.

The bill effects a number of amendments to provisions in the Comprehensive Nuclear Test-Ban Treaty Act to better enable Australia to respond effectively to any request for clarification or for an inspection to demonstrate compliance with the CTBT.

Whilst an on-site inspection is very unlikely in Australia, this is an important aspect of the CTBT, and our national legislation should be fully consistent with treaty obligations.

Each of the primary acts amended by this bill is administered by the Australian Safeguards and Non-Proliferation Office (ASNO). However, each act adopts its own name for the office which will implement it and for the title of the director of that office. The bill provides in the case of each act that the office of its director may be referred to by a name or title specified by the minister in the *Gazette*. This will facilitate practical naming arrangements under the umbrella of ASNO or of any future administrative structure.

I present the explanatory memorandum.

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

PARLIAMENTARY ZONE

Approval of Proposal

Mr TUCKEY (O'Connor—Minister for Regional Services, Territories and Local Government) (11.03 a.m.)—I move:

That, in accordance with section 5 of the Parliament Act 1974, the House approves the following proposal for work in the Parliamentary Zone which was presented to the House on 25 June 2003, namely: Old Parliament House gardens reconstruction and additional works.

Section 5(1) of the Parliament Act provides:

> No building or other work is to be erected on land within the Parliamentary zone unless … the Minister has caused a proposal for the erection of the building or work to be laid before each House of the Parliament and the proposal has been approved by resolution of each house'.

In 1994, the authority commissioned a master plan of Old Parliament House gardens to ensure that the rich and unique history of the first parliamentary gardens is not forgotten but made available for all Australians to visit, enjoy and interpret.

The master plan reconstructs the early 1930s landscape design of the gardens and includes the provision of pathways, gates, pergolas, seats, toilet facilities and shelters in the early architectural style of Old Parliament House. New rose, shrub and tree plantings are proposed, which will reinforce the existing formality of the gardens in keeping with the original intent and design. Twelve gateways are planned to enable access through the cypress hedge. The proposed gateways will connect the gardens with Old Parliament House, Magna Carta Place, Constitution Place and the National Rose Gardens.

In March 2000 both houses of parliament approved the reconstruction of the gardens. Several visitor facilities were omitted from the final plans of the gardens, in response to comments from the Australian Heritage Commission and to contain costs. Stage 1 of the works, comprising the replacement of the ageing cypress hedge, was completed in December 2000. Since the completion of stage 1, the authority has been exploring ways to fund the project through patronage and depreciation funds. The authority now has the funds to proceed with the construction and to reintroduce the proposed visitor facilities into the works package. The authority considers that the additional facilities, including lighting, will greatly improve the amenity of its gardens, encourage visitation and allow people to enjoy

people to enjoy and interpret a significant part of our nation's history.

To cater for the increased visitation to the Parliamentary Zone and, in particular, bus tours, a tennis pavilion building is proposed for the House of Representatives garden, providing shelter and toilet facilities. The pavilion will also provide shower and change room facilities for tennis players. The pavilion replaces the substation building, which will be relocated in an existing facility at Old Parliament House. A kiosk pavilion is proposed to be located in the Senate garden to provide a focus for small gatherings and events. The structure includes an open shade pavilion and rear kitchenette with restricted access.

It is proposed that, in the spirit of the early years, the gardeners should have a public profile in the gardens. It is proposed that a maintenance facility building, located in the south-west corner of the House of Representatives garden, will replace the original gardeners' work sheds. The facility will include toilets, showers, an office and a lunch room. The design of all the proposed buildings and the gardens are based on the original J. S. Murdoch pavilion design, which was designed in 1926 for the gardens but was never built. The proposed buildings feature a rendered brick finish painted white, a red brick base course, timber window frames and copper roofs.

Timber arbors for climbing roses are proposed for the Rex Hazelwood garden, the Ladies Rose Garden and the Macarthur Rose Garden. Arbors were originally used in the gardens but have long been lost. Additional timber seats are proposed for the gardens, to match the original garden seat design. As a result of these new facilities, the authority anticipates a demand for use of the gardens at night. It is intended that the gardens will be lit when in use at night. Pedestrian lighting is proposed for all paths and gateways. Tennis court lights and up-lighting of architectural features are also proposed.

In addition, it is intended to lock the gardens at night and to provide a security fence around both gardens. The original fence was removed with an ageing hedge in 2000. The proposed black steel picket fence is located inside the new hedge, and it is intended that, by pruning the hedge beyond the fence line, the fence will integrate into the hedge and be concealed in due course.

The estimated cost of the additional works is $1.9 million. As the gardens are included in the Parliament House vista and are adjacent to the curtilage of Old Parliament House—which are both entered in the Register of the National Estate—the authority sought advice from the Australian Heritage Commission. Through discussions with the commission, the design of the additional works has been modified as requested by the commission—in particular, the nibs in the hedge, other than those at the main entrances, have been removed from the design. The commission expressed its support for the proposed additional works in letters of 28 March 2003, 19 May 2003 and 3 June 2003.

The approval of both houses of parliament is sought, pursuant to section 5(1) of the Parliament Act 1974, for the design, siting and construction of the additional works within sections 38 and 40 Parkes, being part of the Parliamentary Zone. The National Capital Authority has advised that it is prepared to grant the works approval pursuant to section 12(1)(b) of the Australian Capital Territory (Planning and Land Management) Act 1988.

Question agreed to.

PERSONAL EXPLANATIONS

Mr LAURIE FERGUSON (Reid) (11.09 a.m.)—Mr Speaker, I wish to make a personal explanation.

The DEPUTY SPEAKER (Hon. D.G.H. Adams)—Does the honourable member claim to have been misrepresented?

Mr LAURIE FERGUSON—Yes, very grievously.

The DEPUTY SPEAKER—Please proceed.

Mr LAURIE FERGUSON—I cite the *Australian* newspaper's report this morning in relation to allegations made by the Minister for Employment and Workplace Relations. That article cited a statutory declaration and a comment by the minister that I had been engaged in 'a campaign of racial vilification'. I would like to make the following points. In relation to the latter, the minister withdrew that comment. My record with regard to interaction with the Lebanese and broader Arabic community is on the public record. The minister did not say that he had a statutory declaration; he used the phraseology that he had corroboration and 'the words of Mr Ahmed El Dirani' to essentially reinforce the allegations by Mr Kisrwani and Mr Abbott. So I want to clarify those two points at the outset.

I now turn to a *Sydney Morning Herald* article by Cynthia Banham and Mark Riley, which goes to the credibility of Mr Abbott's tales. There, the alleged correspondent in the material he read to the parliament yesterday said to the *Sydney Morning Herald* reporters that a recent brain haemorrhage had affected his memory—that is, the memory of the source of the minister's allegations. This is further evidence that these claims, centred upon the hearsay of Mr Kisrwani, are without foundation. Mr Kisrwani and the Minister for Employment and Workplace Relations are relying on a person who, as I say, has serious problems. I turn to a further point: he claimed that he went to a meeting in October 2001. There is no record whatsoever that he attended a meeting in 2001. This is another memory problem that the individual has.

Mr Brough—Mr Deputy Speaker, I rise on a point of order. Taking a matter with regard to being misrepresented allows you to point to where you have been represented, not to enter into argument. I draw your attention to the fact that the shadow minister is in fact entering into argument and is not simply pointing out where he believes he has been misrepresented in the appropriate newspapers.

The DEPUTY SPEAKER—I ask the member for Reid to show the House where he has been misrepresented.

Mr LAURIE FERGUSON—The other misrepresentation is around a meeting in October 2001. There is no evidence for this whatsoever, although I readily concede that this gentlemen attended a meeting 2½ years previously—one meeting of the Australian Labor Party.

COMMITTEES

Public Works Committee

Approval of Works

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (11.12 a.m.)—by leave—I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Provision of facilities for the ACT multi user depot, HMAS Harman.

The Department of Defence proposes to construct a multi-user depot at HMAS *Harman* in the Australian Capital Territory. The objective of this proposal is to provide facilities for Royal Australian Air Force Regular Unit and various Defence reserve and cadet units. It will concentrate reserve and cadet units

and provide accommodation for the units which will vacate RAAF Fairbairn and the Werriwa Training Depot in Canberra City. The proposed facility will also provide generally improved training and administrative facilities, which will realise savings in the operating costs of these units.

RAAF Fairbairn has been sold, and relocation of units to HMAS *Harman* will reduce lease commitments of the Department of Defence at Fairbairn. There is insufficient space at the Werriwa Training Depot for current uses, and it is to be sold in the near future. Co-location of the tri-service units at HMAS *Harman* would allow the proposed sale to proceed.

The proposed new facility will provide working accommodation, including office accommodation and specialist training facilities; shared training facilities in the form of lecture rooms, syndicate rooms, conference rooms and parade ground; storage facilities, including provision of general stores and weapons; workshop facilities for nominated units; storage and maintenance facilities for unit vehicles and specialist vehicles; shower and change facilities; close training areas; access to messes, a gymnasium and a medical aid post; and access to parking areas. The estimated out-turn cost of the proposed works is $13.5 million.

In its report, the Public Works Committee has recommended that this project proceed subject to its recommendations. The Department of Defence accepts the recommendations of the committee. Subject to parliamentary approval, the construction of the new facilities would commence in September this year and be completed and available for use by July 2004. On behalf of the government, I would like to thank the committee for its support, and I commend the motion to the House.

Question agreed to.

Treaties Committee

Report

Ms JULIE BISHOP (Curtin) (11.15 a.m.)—On behalf of the Joint Standing Committee on Treaties, I present the committee's report entitled *Report 52: Treaties tabled in March 2003: Singapore-Australia Free Trade Agreement; Amendments to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Regulations for the prevention of pollution by sewage from ships (revised);* and *Convention on the control of harmful anti-fouling systems on ships*, together with the minutes of proceedings and evidence received by the committee.

Ordered that the report be printed.

Ms JULIE BISHOP—by leave—*Report 52* contains the results of the inquiry conducted by the Joint Standing Committee on Treaties into four treaty actions tabled in the parliament on 4 March 2003 concerning endangered species, pollution from ships and antifouling systems on ships, and the Singapore-Australia Free Trade Agreement.

The amendments to appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora provide for the strict regulation of trade in species threatened with extinction, either by prohibiting trade altogether or by monitoring international trade in species such as the Madagascan chameleon, the Black Sea bottlenose dolphin and the seahorse. The committee found that the amendments are consistent with Australia's commitment to international cooperation for the protection and conservation of wildlife that may be adversely affected by trade.

Also in relation to the environment, the Regulations for the Prevention of Pollution by Sewage from Ships—generally referred to as MARPOL—defines and sets standards for sewage management systems on ships and in

ports. There are currently no enforceable international standards relating to the discharge of sewage from commercial vessels. The committee supports MARPOL and recommends that binding treaty action be taken, as it will enable Australia to enforce the full range of controls on sewage systems on foreign and Australian flagged vessels and ensure that consistent national and international standards can be applied to foreign ships, thereby protecting the Australian marine and coastal environments.

Recognising the harmful effects of organotin based compounds in antifouling paints on ships, the International Convention on the Control of Harmful Anti-fouling Systems on Ships was developed by the International Maritime Organisation. This treaty action enables Australia to enforce a full range of controls on such paints on foreign and Australian flagged vessels. The convention provides for inspection of ships and detention for violations. The committee therefore recommends that binding treaty action be taken.

Among the proposed treaty actions tabled on 4 March was the Singapore-Australia Free Trade Agreement, and associated exchange of notes. This treaty is the first bilateral free trade agreement that Australia has signed in 20 years. The committee is aware that there are significant concerns in the Australian community, especially given its widely accepted status as a template treaty for future free trade agreements. For this reason, the committee sought the views of a broad range of interested parties, including state governments, peak industry organisations, academics, and finance and commercial bodies. The committee believes that the scope of issues addressed in this report should answer most concerns effectively, and that concerns about any future agreement should be considered by assessing each proposed free trade agreement on its own merit.

The committee considers that the main advantages under the Singapore-Australia free trade agreement appear to be increased transparency and predictability for service providers, and decreased input costs for industry using components from Singapore as a result of the reduction in tariffs. The removal of tariffs on Singaporean imports to Australia should improve the competitive position of Australian manufacturing industry by allowing access to duty-free industrial inputs. The report addresses a wide range of issues and, as a result of its deliberations, the committee supports the Singapore-Australia Free Trade Agreement and recommends that binding treaty action be taken.

Before I conclude, I wish to raise a matter of considerable concern to the committee. In the case of the Singapore-Australia Free Trade Agreement and MARPOL, the relevant legislation was introduced and passed through the House of Representatives prior to the committee reviewing the proposed treaty action and tabling its report. While the committee accepts that binding action has not been taken in a strict sense, the introduction of enabling legislation to implement treaty obligations before the committee has completed its review and reported to parliament could undermine the workings of the committee over time. It is, at least, in contravention of the spirit of the committee's terms of reference.

In conclusion, it is the view of the committee that it is in the interests of Australia for all the treaties considered in *Report 52* to be ratified where treaty actions had not already entered into force, and the committee has made its recommendations accordingly. I commend the report to the House.

Mr WILKIE (Swan) (11.21 a.m.)—by leave—The Joint Standing Committee on Treaties has, as has already been stated, looked at a number of treaties that were tabled in March 2003: the Singapore-Australia

Free Trade Agreement—which I will get to in a moment—amendments to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, Regulations for the Prevention of Pollution by Sewage from Ships (revised) and the International Convention on the Control of Harmful Anti-fouling Systems on Ships. In relation to the last three of those treaties, I fully support the comments made by the honourable member opposite, the chair of the committee.

I want to make a few comments about the Australia-Singapore Free Trade Agreement, particularly in regard to the possible implications that ratifying this treaty may have on free trade agreements that Australia is currently negotiating and may negotiate in the future. Whilst we are recommending ratification on this occasion, I believe it should be acknowledged that we have not necessarily looked at all the issues associated with free trade agreements and the wider implications for Australia's position in the region, both now and in the future, with their ratification. It is something that we need to consider, and I suggest that the committee have an inquiry into free trade agreements generally and their impact on Australia and on our relationships with other nations.

Among issues raised with the Singapore free trade agreement was the lack of states consultation. Whilst the Department of Foreign Affairs and Trade has provided evidence that states were consulted and fully understood the implications of the dispute resolution procedures contained within the treaty, there was some dissenting comment on whether that had occurred adequately. We sought further information from the department, and they clarified that they believed that the states were aware of the implications of that action. In fact, two of the states have written back saying that they do not have a problem with the dispute resolution procedures. It is unfortunate that, before we could table this report, the other states and territories had not responded to the letters sent to them calling for their comment.

Also in regard to the dispute resolution clause, we already have 18 treaties in place with the particular clause for dispute resolution in it. The comment was made that that is normally the case with non-developed countries, and Singapore is treated as a developed nation. In reality, under the World Trade Organisation guidelines, Singapore is still seen as a developing nation. There have been some slight difficulties with that issue.

One area that concerns me is the lack of consultation that has occurred with local government. Having been a councillor for a number of years before coming to this place, I realise that local government has been going through a very large transformation process in recent years. Local government has to tender for services in its own right and is very open to competition policy and guidelines. Therefore, I believe that the introduction of any free trade agreement will have an impact on local government and that future negotiations should have a far wider discussion process with those bodies so that they will be properly consulted.

As has been raised by the chair, it is very disturbing to see that legislation implementing treaties such as the Singapore treaty and conventions such as the one on anti-fouling systems on ships have been introduced in this House prior to the committee having made its deliberations. I believe that is in absolute contempt—a word that others on the committee might not use—of the parliamentary process. The system put in place by the executive is that a treaty would be tabled; the treaties committee would have the opportunity to report on that treaty, take evidence and make recommendations; and then legislation would be introduced, taking into consideration all the comments and views made by the people giving evidence to the commit-

tee. To introduce the legislation before undertaking that process flies in the face of any suggestion that we are seeking public comment with a view to implementing what they may put forward. The government need to look at the way they introduce legislation. I urge them to comply with their own recommendations and processes in relation to treaty investigations and public consultation.

I also acknowledge that there are a number of dissenting reports from the member for Lyons and Senators Marshall and Bartlett. They have raised a number of important issues that need to be considered. I understand that time will be given to them to discuss those issues in the Main Committee or in the Senate.

In closing, I would like to thank the staff of the committee. They have been under a lot of pressure, particularly to get the Singapore free trade agreement written up and to us for tabling today. Today was the last day that we had to table the report. That has meant that we have been working to some very tight deadlines. Thank you to the staff. They have done a wonderful job. I commend the report to the House.

Ms JULIE BISHOP (Curtin) (11.27 a.m.)—by leave—I move:

That the House take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Members' Interests Committee

Report

Mr HAASE (Kalgoorlie) (11.27 a.m.)—As required by resolutions of the House, I table copies of notifications of alterations of interests received during the period 26 March to 25 June 2003.

Publications Committee

Report

Mr RANDALL (Canning) (11.27 a.m.)—I present the report from the Publications Committee sitting in conference with the Publications Committee of the Senate.

Report—by leave—adopted.

MIGRATION AMENDMENT (DURATION OF DETENTION) BILL 2003

Second Reading

Debate resumed from 18 June, on motion by **Mr Ruddock**:

That this bill be now read a second time.

Ms GILLARD (Lalor) (11.29 a.m.)—I rise to speak on the Migration Amendment (Duration of Detention) Bill 2003. I indicate that at the conclusion of my remarks I will be moving a second reading amendment in the following form:

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 Howard Government for keeping children in detention and calls on the Howard Government to:

(1) immediately ensure that children and their families are taken out of high security detention centres and housed in alternative detention arrangements;

(2) immediately ensure that all unaccompanied children are placed into foster or community care arrangements;

(3) honour the Prime Minister's statements that contact with fathers is vital for children by allowing complete family units to be together in alternative detention arrangements; and

(4) acknowledge the numerous reports from mental health professionals that life behind razor wire is fundamentally damaging to children.

Prior to dealing with the matters comprehended in the second reading amendment, I would like to make some remarks directly on the bill. Under section 189 of the Migration Act 1958, unlawful non-citizens must be detained. An unlawful non-citizen is a person

who does not have legal authority to be in the migration zone. Not everybody who falls foul of immigration requirements ends up being detained or being detained for long periods of time. I am sure members in this House are familiar with arrangements where people are picked up by immigration compliance because they overstayed their visa or had some form of visa problem. They might be detained for a very short period of time pending their removal to their home country.

People in detention for longer term periods tend to fall into three categories. Obviously this will not be uniformly true, but it is generally true to say that they fall into three categories. The first of those categories is failed asylum seekers. The second is persons who are subject to deportation under section 200 of the act—that is, they are criminal deportees: people who have committed offences within Australia; have been subject to appropriate punishment under Australian law, including terms of imprisonment if required; and at the end of that period of imprisonment have been moved from state jails into immigration detention pending removal to their home countries. The third category of persons who may be in detention for a longer period of time is persons who have their visa cancelled under section 501 of the act—that is, they have had their visa cancelled because they have failed the character test. That tends to apply in circumstances where a person who has been granted a visa to come to Australia has entered Australia and information has subsequently come to light that they ought not to have ever had that visa because, had the information been available at the time the visa was granted, they would have failed the character test.

Persons who fail the character test are persons who have substantial criminal offences in their home country or in other overseas countries. In ordinary circumstances, if they fail to declare those offences and they do not otherwise come to attention, they might get a visa and enter Australia. If those offences then come to light, the visa is cancelled on character grounds. Character cancellations might proceed because information comes to light that people are in contact with organised crime in some fashion or that they might jeopardise Australia's national security. There are a number of other categories under the act, but clearly people who are in these circumstances are people whose visas have been cancelled because of those character problems.

These tend to be the three classes of people who are in long-term detention. It is obviously people who are in longer term detention who would be motivated to approach the courts to seek to be released from detention entirely because, they contend, some error has been made which has resulted in them being put in detention. Or they may seek to approach the courts to be released from detention on an interim basis while some matter about which they are in dispute is finally resolved by the courts.

As I understand the government's position, the bill we have here today is motivated largely by a decision of the full Federal Court last year in the case of VFAD v. the Minister for Immigration and Multicultural and Indigenous Affairs. This was a case involving an asylum seeker. The codename VFAD is used because asylum seeker names are not used directly in court proceedings. Whilst this is not the only asylum seeker case that has proceeded on this ground, we would have to say that the circumstances in this case were fairly unusual. VFAD is an asylum seeker from Afghanistan. His claim for a protection visa—a refugee visa—was rejected on 11 April 2002 after the fall of the Taliban in Afghanistan.

When VFAD appealed that decision, he obtained documents from his file under freedom of information. Those documents

showed that the file contained an 11-page document, headed 'Protection visa decision record', signed by an appropriate departmental officer. Evidence proved it was signed on 7 December 2001. So this man, VFAD, has come to Australia and filed a claim to be a refugee, saying that he is from Afghanistan and subject to persecution in Afghanistan. His version, the case that VFAD put, was that a lawful decision to give him a visa was made on 7 December 2001. That decision was not acted upon; it just stayed on the file. His case was then processed post the fall of the Taliban, at a time when circumstances had fundamentally changed in Afghanistan, and his refugee claim was rejected.

So, whilst there is at least one other case that raises this identical construct of facts—that is, a document on the file that could be construed to be a decision to grant a visa—one would have to say that this is a fairly unusual circumstance. There are not going to be hundreds of thousands of cases where there is a decision on the file which can be contended to have been a decision which could have been acted upon. VFAD went to the Federal Court and said, 'If you look at my file, I believe a decision was made to give me a visa on 7 December 2001. To the extent that I have been detained past 7 December 2001, that detention is unlawful because, properly viewed, I am not an unlawful non-citizen. Properly viewed, I am a person who received a visa on 7 December 2001.' That was the issue before the Federal Court.

VFAD is now authority for the following proposition: that the Federal Court may order interim release from detention for persons who have a case to argue about whether or not their detention is lawful. In the case of VFAD, when he went to the Federal Court the first instance judge said, 'I think you have got a credible case that you are not an unlawful non-citizen and have not been an unlawful non-citizen since 7 December 2001. I am going to release you from detention on an interim basis while I sort that matter out and make final orders.' It was that decision to release this man on an interim basis that went on appeal to the full Federal Court, and the full Federal Court said yes; it thought the first instance judge had got it right and that the Federal Court did have power to order such an interim release from detention.

It is on the basis of that case that this bill has been brought before the House. This bill seeks to amend section 196 of the Migration Act so that it would no longer be possible for the Federal Court to make that sort of interim order. That is, as I understand it, the way in which this legislative change is put. I will come to whether or not that is a right construction of the amendments in a later section of this speech, but that is the case that the Howard government puts for this bill.

In contending for this bill, the government has also said, 'We are now in a circumstance where there could potentially be a big problem, because the full Federal Court has said that it can release people from detention on an interim basis, so maybe the full Federal Court will start releasing people who are criminal deportees or subject to visa cancellation under the character test, using that same power'. They feel that there is a major problem about the potential for that to happen. Whilst I can understand that in some regard, I would say this: it is not true that late last year, in the VFAD case, was the first time the full Federal Court has ever given consideration to releasing someone from detention on an interim basis who is a criminal deportee or who has failed the character test. It is not true to say that.

If we go through the authorities in the full Federal Court about this aspect of the Migration Act, we find that in February 1992 there is a very important case. The case of the Minister for Immigration, Local Government

and Ethnic Affairs—as you may recall, Mr Deputy Speaker Lindsay, the title of the minister was different in those days—v. Msilanga was a case that followed a range of single judges who had decided to release people who were criminal deportees or subject to visa cancellation on character grounds from detention on an interim basis. After all of those individual cases, the full Federal Court is seized of the matter, and in this case of Msilanga the full Federal Court found that it had the power to release criminal deportees and persons subject to character visa cancellations from detention on an interim basis. So if we look at the law we cannot say that the first time there was ever an issue about this was late last year in the case of VFAD. There has been an issue about this over a longer period of time—indeed, as far back as that full Federal Court case in 1992.

When one studies migration law—and it is not necessarily a study I would be recommending to people as a Saturday night occupation—one finds that the Migration Act is a moving rather than a stationary target. It is so frequently amended that I am sure the minister has had cause to look at the Migration Act on some Saturday nights; I did last Saturday night. As a result of the fact that it is a moving target, you are not really able to say that a 1992 authority is still in exactly the same shape today as it was in 1992, because you will find that the act has been amended many times since 1992. What we can say is that the full Federal Court held itself to have that power in 1992. The extent of that power has waxed and waned a bit over the interceding 10 years as a result of amendments in the Migration Act, but the power has been there.

That is a long way of saying that, perhaps properly viewed—and this is certainly the opposition's contention—the bill before the House, which is being dealt with on an urgent basis, is not, in truth, urgent. What we say is that it is not true to characterise the issue about criminal deportees and character visa cancellations as having arisen only late last year. Even if that had been the case, we would have suggested that this bill could have been brought into the House more quickly, rather than on an urgent basis last Wednesday, in the second last week of sitting prior to the winter recess, and then urged upon us for urgent passage on the last day of sitting before the winter recess. We would have said that, even if VFAD were the only case about this, the matter could have been dealt with more expeditiously than this. VFAD is not the only case about this; indeed, there have been cases over 10 years which raise the same issue.

Consequently, the opposition, having assessed this bill, says the following: we do not believe that it is truly urgent. We are not prepared to support it in a form where it also deals with failed asylum seekers. We would give consideration to a proper proposition dealing with criminal deportees and visa character cancellation matters. I have made a suggestion to the minister, on a very preliminary basis, about how that might be done. My suggestion—on the basis of correspondence between me as shadow minister and him as minister—is that perhaps it may be appropriate to clarify in the Migration Act that a matter to which the Federal Court, or indeed any court, must have regard when dealing with the proposition as to whether or not it should release someone from detention on an interim basis is the safety and security of the Australian community. That might be one suggestion for dealing with this issue, and we have made that suggestion.

The minister has not accepted that suggestion, but the very making of that suggestion indicates that, from the opposition's point of view, if on sober assessment over time we are convinced that there is a major problem in relation to criminal deportees and visa character cancellations—and I stress those

two areas—then we are prepared to work with the government to deal with amendments to the Migration Act that address that area. But we are not prepared to support this bill.

To be absolutely clear, Labor are not prepared to support a bill which deals with failed asylum seekers in a way which would prevent the Federal Court from ordering their release on an interim basis if that were called for. We would be prepared to look at a proposition that did not prevent the Federal Court from making such orders in other areas but gave some guidance to the Federal Court as to the matters to which it should have regard in those circumstances. We are prepared to consider government suggestions about the criminal deportee and visa cancellation area. Because of the way in which this bill has been introduced into the House we have not been able to have those discussions with the government in any meaningful way, but that offer stands open.

We believe that there is a more than credible legal argument that this bill achieves more than the government says it wants it to achieve. The government says that it wants this bill to achieve a circumstance where the Federal Court could not release someone from detention on an interim basis. We believe that there is a more than credible legal argument that this bill would actually prevent the Federal Court, or any court, from releasing someone from detention full stop. We think that there is a more than credible legal argument that the bill achieves a result in excess of what the government says it wants.

That is important for the following reason. Some people have been in immigration detention for more than four years. The government contends that it can return them to their country of origin or a third country in which they have a right to live, but more than four years later it has not been able to do that. In relation to one man, a Mr Al Masri, the court found he was in immigration detention in circumstances where he was no longer being properly detained under the Migration Act. There was no prospect of removing him to his home country. Therefore, his detention had ceased to be proper administrative detention under the Migration Act and had become unlawful punitive detention, and he needed to be released from detention.

I would say that in a civilised society, a Western democracy, we would all, frankly, concede in dicussions with each other that detaining someone and depriving them of their liberty is probably the biggest policy decision, the biggest action, that the state can take against an individual in our society; that it would be highly inappropriate to sanction a course of conduct whereby, inadvertently, this bill, if enacted into law, would wholly rob the court of the jurisdiction to make the determination that someone's detention had become unlawful; and that it would be highly inappropriate for this bill, inadvertently, to put us in a position where, literally, people could be detained for a lifetime and have absolutely no means of having that addressed anywhere. I do not believe, in a society of the nature of ours, that that is a proposition people will agree to. You could paint all sorts of absurd examples here if you wanted to. We say that, if this bill is passed, it could well end up being law that an unaccompanied minor who comes here as an unlawful non-citizen at the age of four could still be in detention at the age of 84 because they had nowhere they could go to agitate the case that their detention had moved from being detention under the Migration Act to unlawful punitive detention. That would not be the hallmark of a society with the kinds of values that our society has.

Labor say that there is a more than credible legal argument that this bill achieves that effect, even though the government says that is not its stated purpose. We are responding

to the bill on that basis. We will not be supporting the bill in this House. Over the winter recess, if the government has something to say to us on criminal deportees and visa cancellations on character grounds, we will assess what it says to us on that basis. But we will not support this bill, because it deals with failed asylum seekers. We will not support it, because it has left open the proposition of endless unlawful detention in this country. We do not believe that it needs to be dealt with this week in a hurried and less than careful way, given that our society has been in a circumstance where criminals held for deportation or persons subject to visa character cancellations have been routinely released by the courts in this country for more than a decade.

I turn to the second reading amendment that I will move at the conclusion of my speech. As I indicated at the commencement of my remarks, this second reading amendment directs the government's attention to a much bigger issue related to detention—an issue that we think this House should express a view on before we move to the winter recess—that is, the issue of children in detention. We know that the Family Court has said that it believes it has the jurisdiction to deal with the issue of children in detention. We know that this government is planning to appeal that decision. We also know that this government could be in a position tomorrow to make better arrangements for children in detention. As I had cause to remark to this House earlier this week, as of today—notwithstanding that the minister was moved to make a ministerial statement about this late last year under pressure from Labor and from moderates on the backbench, and notwithstanding the budget announcement about new, alternative detention arrangements associated with the Baxter facility or even a more recent press release about Port Hedland—the ugly truth is that there are children in high-security detention. And many of them have been there for very long periods.

What is the only alternative that this government puts? The government says, 'That's okay because we've got this alternative Woomera detention trial, which is ordinary-style houses secured at the perimeter. Mothers and their children can go into that trial, so we've sort of fixed the problem.' What that does not address is the price of those mothers and their children going into that arrangement, which is that they need to leave the father and any older male children in high-security detention.

Ironically, the closure of Woomera has actually made this an even worse proposition for people. What is being said to a married woman who, say, may have a 17-year-old son and a few kids under 12 is, 'You and your children under 12 can go into the Woomera alternative detention trial, but your 17-year-old son and your husband have to be held at either Baxter or Port Hedland.' As I remarked in the House the other day, geography was never my strong point, but I am certain of this: Baxter, which is outside Port Augusta, is a long way from Woomera, and Port Hedland is a very long way from Woomera.

Mr Ruddock—You might have passed.

Ms GILLARD—The minister says that my geography is not that bad, which is reassuring. I note that a West Australian member is going to speak after me. He might contemplate how a family member could get from Port Hedland to Woomera and how long he reckons that journey would take.

I invite him to do it three ways. I invite him to estimate it by air on commercial flights. That would come out at several days. He is shaking his head. I do not think he realises the difficulties of flying from Adelaide to Woomera. I invite him to look at it from the point of view of chartering. Then I invite

him to look at it from the point of view of road travel. Then I invite him to come to a conclusion and make a comment about whether it is appropriate to have husbands and male children separated from wives and other children in that way.

I invite him, when he is making a comment about that, to specify whether or not he agrees with the Prime Minister's statement—which I agree with wholeheartedly—that it is vital for fathers to have contact with their children and that it is vital, in particular for the parenting of boys, that fathers are in routine contact with their children. I invite him to explain why it is that the government is prepared to have a major inquiry—heralded by the Prime Minister as very important—about changing family law arrangements so that it can guarantee that fathers are in more routine contact with their children on the one hand while it countenances the current detention arrangements on the other.

What the second reading amendment specifies is that this government could fix that problem by lunchtime today. It is five to 12 and they could fix it by one o'clock by announcing that they would allow husbands and older male children to join women in the Woomera alternative detention trial.

From my perspective and from Labor's perspective, that is not a completely satisfactory solution. Our policy deals with the matter differently. But I say this: this government, if it is serious about the rhetoric of fathers being in contact with children and about the statements it made last December about dealing with children in a better way in terms of detention arrangements, could announce that decision by one o'clock today. If it does not do so, people are entitled to conclude that all of the rhetoric about fathers, families and all the rest of it is just colour and movement for talkback radio and is not seriously meant.

Or perhaps there is another conclusion to be drawn, which is that, when this government comes to count children, it does not count children in detention as really children; it counts them as something else—some sort of different species or something. I invite the member who is going to speak after me to address some of those issues.

When this matter comes to a conclusion, we will be seeking to divide on the second reading amendment which I will shortly move. In terms of government members opposite, that means that one of the things that they will get to do today before we proceed to the winter recess is to vote for or against the proposition that children should be held in detention. I make the following promise to members opposite: their vote, when recorded, will become a matter well known in their electorates.

On that basis, 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 Howard Government for keeping children in detention and calls on the Howard Government to:
>
> (1) immediately ensure that children and their families are taken out of high security detention centres and housed in alternative detention arrangements;
>
> (2) immediately ensure that all unaccompanied children are placed into foster or community care arrangements;
>
> (3) honour the Prime Minister's statements that contact with fathers is vital for children by allowing complete family units to be together in alternative detention arrangements; and
>
> (4) acknowledge the numerous reports from mental health professionals that life behind razor wire is fundamentally damaging to children.

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

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

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

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [No. 2]

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

Senate's amendments—

(1) Clause 2, page 2 (table item 3, 2nd column), omit "Division 72 of the *Criminal Code*", substitute "item 8 of Schedule 1".

(2) Clause 4, page 2 (lines 12 to 14), omit the clause.

(3) Schedule 1, item 24, page 6 (lines 29 and 30), omit the definition of ***approved lawyer***.

(4) Schedule 1, item 24, page 7 (after line 6), after the definition of ***issuing authority***, insert:

> ***lawyer*** means a person enrolled as a legal practitioner of a federal court or the Supreme Court of a State or Territory.

(5) Schedule 1, item 24, page 7 (lines 12 to 14), omit the definition of ***superior court***, substitute:

> ***superior court*** means:
>
> (a) the High Court; or
>
> (b) the Federal Court of Australia; or
>
> (c) the Family Court of Australia or of a State; or
>
> (d) the Supreme Court of a State or Territory; or
>
> (e) the District Court (or equivalent) of a State or Territory.

(6) Schedule 1, item 24, page 7 (lines 15 to 28), omit section 34AA.

(7) Schedule 1, item 24, page 8 (line 23), omit "authority,", substitute "authority".

(8) Schedule 1, item 24, page 8 (line 29), omit "the person".

(9) Schedule 1, item 24, page 8 (line 30), omit "has", substitute "the person has".

(10) Schedule 1, item 24, page 8 (lines 32 and 33), omit subsection 34B(5).

(11) Schedule 1, item 24, page 9 (lines 1 to 7), omit subsections 34B(6) to (8).

(12) Schedule 1, item 24, page 9 (lines 8 to 12), omit subsection 34B(9).

(13) Schedule 1, item 24, page 10 (line 18), omit "produce; and", substitute "produce.".

(14) Schedule 1, item 24, page 9 (line 28), omit "person.", substitute "person; and".

(15) Schedule 1, item 24, page 9 (after line 28), at the end of subsection 34C(2), add:

> (d) if one or more warrants were issued under section 34D as a result of the previous requests—a statement of:
>
> (i) the period for which the person has been questioned under each of those warrants before the draft request is given to the Minister; and
>
> (ii) if any of those warrants authorised the detention of the person—the period for which the person has been detained in connection with each such warrant before the draft request is given to the Minister.

(16) Schedule 1, item 24, page 10 (line 23), omit "168", substitute "72".

(17) Schedule 1, item 24, page 11 (lines 5 to 11), omit subsection 34C(3B), substitute:

> (3B) In consenting to the making of a request to issue a warrant authorising the person to be taken into custody immediately, brought before a prescribed authority immediately for questioning and detained, the Minister must ensure that the warrant to be requested is to permit the person to contact a single lawyer of the person's

choice (subject to section 34TA) at any time that:

(a) is a time while the person is in detention in connection with the warrant; and

(b) is after:

(i) the person has been brought before a prescribed authority for questioning; and

(ii) the person has informed the prescribed authority, in the presence of a person exercising authority under the warrant, of the identity of the lawyer whom the person proposes to contact; and

(iii) a person exercising authority under the warrant has had an opportunity to request the prescribed authority to direct under section 34TA that the person be prevented from contacting the lawyer.

(18) Schedule 1, item 24, page 11 (lines 12 to 29), omit subsection 34C(3C).

(19) Schedule 1, item 24, page 11 (before line 30), before subsection 34C(4), insert:

(3D) If, before the Director-General seeks the Minister's consent to the request (the ***proposed request***), the person has been detained under this Division in connection with one or more warrants (the ***earlier warrants***) issued under section 34D, and the proposed request is for a warrant meeting the requirement in paragraph 34D(2)(b):

(a) the Minister must take account of those facts in deciding whether to consent; and

(b) the Minister may consent only if the Minister is satisfied that the issue of the warrant to be requested is justified by information that is additional to or materially different from that known to the Director-General at the time the Director-General sought the Minister's consent to request the issue of the last of the earlier warrants issued before the seeking of the Minister's consent to the proposed request.

This subsection has effect in addition to subsection (3).

(20) Schedule 1, item 24, page 11 (line 36) to page 12 (line 6), omit subsection 34C(5).

(21) Schedule 1, item 24, page 12 (line 11), omit ", and with subsection 34C(5) if relevant".

(22) Schedule 1, item 24, page 12 (line 16), omit "offence; and", substitute "offence.".

(23) Schedule 1, item 24, page 12 (line 21), omit "168", substitute "72".

(24) Schedule 1, item 24, page 12 (after line 21), after subsection 34D(1), insert:

(1A) If the person has already been detained under this Division in connection with one or more warrants (the ***earlier warrants***) issued under this section, and the warrant requested is to meet the requirement in paragraph (2)(b):

(a) the issuing authority must take account of those facts in deciding whether to issue the warrant requested; and

(b) the issuing authority may issue the warrant requested only if the authority is satisfied that:

(i) the issue of that warrant is justified by information additional to or materially different from that known to the Director-General at the time the Director-General sought the Minister's consent to request the issue of the last of the earlier warrants issued before the seeking of the Minister's consent to the request for the issue of the warrant requested; and

(ii) the person is not being detained under this Division in connection with one of the earlier warrants.

This subsection has effect in addition to subsection (1).

(25) Schedule 1, item 24, page 12 (lines 33 to 35), omit "a specified period of not more than 48 hours starting when the person is brought before the authority", substitute "the period (the ***questioning period***) described in subsection (3)".

(26) Schedule 1, item 24, page 13 (lines 1 to 7), omit subsection 34D(3), substitute:

(3) The questioning period starts when the person is first brought before a prescribed authority under the warrant and ends at the first time one of the following events happens:

(a) someone exercising authority under the warrant informs the prescribed authority before whom the person is appearing for questioning that the Organisation does not have any further request described in paragraph (5)(a) to make of the person;

(b) section 34HB prohibits anyone exercising authority under the warrant from questioning the person under the warrant;

(c) the passage of 168 hours starting when the person was first brought before a prescribed authority under the warrant.

(27) Schedule 1, item 24, page 13 (lines 9 and 10), omit "an approved lawyer", substitute "a lawyer of the person's choice".

(28) Schedule 1, item 24, page 13 (after line 17), at the end of subsection 34D(4), add:

Note 3: A warrant authorising the person to be taken into custody and detained must permit the person to contact a single lawyer of the person's choice, so the warrant must identify such a lawyer.

(29) Schedule 1, item 24, page 13 (after line 17), after subsection 34D(4), insert:

(4A) The warrant may specify times when the person is permitted to contact someone identified as a lawyer of the person's choice by reference to the fact that the times are:

(a) while the person is in detention in connection with the warrant; and

(b) after:

(i) the person has been brought before a prescribed authority for questioning; and

(ii) the person has informed the prescribed authority, in the presence of a person exercising authority under the warrant, of the identity of the lawyer whom the person proposes to contact; and

(iii) a person exercising authority under the warrant has had an opportunity to request the prescribed authority to direct under section 34TA that the person be prevented from contacting the lawyer.

(30) Schedule 1, item 24, page 14 (line 32), at the end of subsection (1), add:

; (h) subject to sections 34TA, 34TB and 34U, the person's right to contact a lawyer of choice at any time during the questioning period.

(31) Schedule 1, item 24, page 15 (line 28), omit "is an approved lawyer or".

(32) Schedule 1, item 24, page 16 (line 22), omit "168", substitute "72".

(33) Schedule 1, item 24, page 18 (lines 13 and 14), omit the note.

(34) Schedule 1, item 24, page 18 (lines 30 and 31), omit the note.

(35) Schedule 1, item 24, page 21 (after line 25), at the end of Subdivision B, add:

34HB End of questioning under warrant

(1) Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 8 hours, unless the prescribed authority before whom the person was being questioned just before the end of that 8 hours permits the questioning to continue for the purposes of this subsection.

(2) Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 16 hours, unless the prescribed authority before whom the person was being questioned just before the end of that 16 hours permits the questioning to continue for the purposes of this subsection.

(3) Anyone exercising authority under the warrant may request the prescribed authority to permit the questioning to continue for the purposes of subsection (1) or (2). The request may be made in the absence of:

(a) the person being questioned; and

(b) a legal adviser to that person; and

(c) a parent of that person; and

(d) a guardian of that person; and

(e) another person who meets the requirements of subsection 34NA(7) in relation to that person; and

(f) anyone the person being questioned is permitted by a direction under section 34F to contact.

(4) The prescribed authority may permit the questioning to continue for the purposes of subsection (1) or (2), but only if he or she is satisfied that:

(a) there are reasonable grounds for believing that permitting the continuation will substantially assist the collection of intelligence that is important in relation to a terrorism offence; and

(b) persons exercising authority under the warrant conducted the questioning of the person properly and without delay in the period mentioned in that subsection.

(5) The prescribed authority may revoke the permission. Revocation of the permission does not affect the legality of anything done in relation to the person under the warrant before the revocation.

(6) Anyone exercising authority under a warrant issued under section 34D must not question a person under the warrant if the person has been questioned under the warrant for a total of 24 hours.

Release from detention when further questioning is prohibited

(7) If the warrant meets the requirement in paragraph 34D(2)(b), the prescribed authority must, at whichever one of the following times is relevant, direct under paragraph 34F(1)(f) that the person be released immediately from detention:

(a) at the end of the period mentioned in subsection (1) or (2), if the prescribed authority does not permit, for the purposes of that subsection, the continuation of questioning;

(b) immediately after revoking the permission, if the permission was given but later revoked;

(c) at the end of the period described in subsection (6).

Subsection 34F(2) does not prevent the prescribed authority from giving a direction in accordance with this subsection.

(36) Schedule 1, item 24, page 21 (after line 25), at the end of Subdivision B, add:

34HC Person may not be detained for more than 168 hours continuously

A person may not be detained under this Division for a continuous period of more than 168 hours.

(37) Section 34HC, omit "168" (wherever occurring), substitute "72".

(38) Schedule 1, item 24, page 21 (after line 34), after section 34J, insert:

34JA Entering premises to take person into custody

(1) If:

(a) either a warrant issued under section 34D or subsection 34F(6) authorises a person to be taken into custody; and

(b) a police officer believes on reasonable grounds that the person is on any premises;

the officer may enter the premises, using such force as is necessary and reasonable in the circumstances, at any time of the day or night for the purpose of searching the premises for the person or taking the person into custody.

(2) However, if subsection 34F(6) authorises a person to be taken into custody, a police officer must not enter a dwelling house under subsection (1) of this section at any time during the period:

(a) commencing at 9 pm on a day; and

(b) ending at 6 am on the following day;

unless the officer believes on reasonable grounds that it would not be practicable to take the person into custody under subsection 34F(6), either at the dwelling house or elsewhere, at another time.

(3) In this section:

dwelling house includes an aircraft, vehicle or vessel, and a room in a hotel, motel, boarding house or club, in which people ordinarily retire for the night.

premises includes any land, place, vehicle, vessel or aircraft.

34JB Use of force in taking person into custody and detaining person

(1) A police officer may use such force as is necessary and reasonable in:

(a) taking a person into custody under:

(i) a warrant issued under section 34D; or

(ii) subsection 34F(6); or

(b) preventing the escape of a person from such custody; or

(c) bringing a person before a prescribed authority for questioning under such a warrant; or

(d) detaining a person in connection with such a warrant.

(2) However, a police officer must not, in the course of an act described in subsection (1) in relation to a person, use more force, or subject the person to greater indignity, than is necessary and reasonable to do the act.

(3) Without limiting the operation of subsection (2), a police officer must not, in the course of an act described in subsection (1) in relation to a person:

(a) do anything that is likely to cause the death of, or grievous bodily harm to, the person unless the officer believes on reasonable grounds that doing that thing is necessary to protect life or to prevent serious injury to another person (including the officer); or

(b) if the person is attempting to escape being taken into custody by fleeing—do such a thing unless:

(i) the officer believes on reasonable grounds that doing that thing is necessary to protect life or to prevent serious injury to another person (including the officer); and

(ii) the person has, if practicable, been called on to surrender and the officer believes on reasonable grounds that the person cannot be taken into custody in any other manner.

(39) Schedule 1, item 24, page 23 (line 22), omit "14", substitute "16".

(40) Schedule 1, item 24, page 23 (line 24), omit "14", substitute "16".

(41) Schedule 1, item 24, page 25 (line 10), omit "*14*", substitute "*16*".

(42) Schedule 1, item 24, page 25 (line 12), omit "14", substitute "16".

(43) Schedule 1, item 24, page 25 (line 16), omit "14", substitute "16".

(44) Schedule 1, item 24, page 25 (line 25), omit "*14*", substitute "*16*".

(45) Schedule 1, item 24, page 25 (line 29), omit "14", substitute "16".

(46) Schedule 1, item 24, page 26 (line 3), omit "14", substitute "16".

(47) Schedule 1, item 24, page 26 (line 18), omit subparagraph 34NA(6)(a)(iii).

(48) Schedule 1, item 24, page 27 (line 4), omit "14", substitute "16".

(49) Schedule 1, item 24, page 27 (lines 15 and 16), omit "an approved lawyer at any time when the person is in custody or", substitute "a single lawyer of the person's choice when the person is in".

(50) Schedule 1, item 24, page 27 (line 29), omit "or (iii)".

(51) Schedule 1, item 24, page 28 (after line 3), at the end of section 34NA, add:

(10) To avoid doubt, paragraphs (6)(b) and (8)(e) do not affect the operation of section 34HB.

(52) Schedule 1, item 24, page 29 (after line 5), after subsection 34NB(4), insert:

(4A) A person commits an offence if:

(a) the person has been approved under section 24 to exercise authority conferred by a warrant issued under section 34D; and

(b) the person exercises, or purports to exercise, the authority by questioning another person; and

(c) the questioning contravenes section 34HB; and

(d) the person knows of the contravention.

Penalty: Imprisonment for 2 years.

(53) Schedule 1, item 24, page 29 (line 30), omit "procedural statement", substitute "written statement of procedures".

(54) Schedule 1, item 24, page 30 (after line 26), after section 34Q, insert:

34QA Reporting by Inspector-General on multiple warrants

(1) This section imposes requirements on the Inspector-General of Intelligence and Security if:

(a) a person is detained under this Division in connection with a warrant issued under section 34D; and

(b) one or more other warrants (the ***later warrants***) meeting the requirement in paragraph 34D(2)(b) are issued later under that section in relation to the person.

(2) The Inspector-General must inspect a copy of the draft request given to the Minister under subsection 34C(2) for each of the warrants, to determine whether the draft request for each of the later warrants included information described in paragraph 34C(3D)(b).

Note: Paragraph 34C(3D)(b) describes information additional to or materially different from that known to the Director-General at the time the Director-General sought the Minister's consent to request the issue of the last warrant that:

(a) was issued under section 34D before the seeking of the Minister's consent to the request proposed in the draft request; and

(b) was a warrant in connection with which the person was detained under this Division.

(3) The Inspector-General must report on the outcome of the inspection in his or her annual report for the year in which he or she carries out the examination. For this purpose, ***annual report*** means a report under section 35 of the *Inspector-General of Intelligence and Security Act 1986*.

(55) Schedule 1, item 24, page 31 (after line 28), after section 34T, insert:

34TA Limit on contact of lawyer of choice

(1) The person (the ***subject***) specified in a warrant issued under section 34D that meets the requirement in paragraph 34D(2)(b) may be prevented from

contacting a particular lawyer of the subject's choice if the prescribed authority before whom the subject appears for questioning under the warrant so directs.

(2) The prescribed authority may so direct only if the authority is satisfied that, if the subject is permitted to contact the lawyer:

(a) a person involved in a terrorism offence may be alerted that the offence is being investigated; or

(b) a record or thing that the person may be requested in accordance with the warrant to produce may be destroyed, damaged or altered.

(3) This section has effect despite paragraph 34F(9)(a).

(4) To avoid doubt, subsection (1) does not prevent the subject from choosing another lawyer to contact, but the subject may be prevented from contacting that other lawyer under another application of that subsection.

34TB Questioning person in absence of lawyer of person's choice

(1) To avoid doubt, a person before a prescribed authority for questioning under a warrant issued under section 34D may be questioned under the warrant in the absence of a lawyer of the person's choice.

Note: As the warrant authorises questioning of the person only while the person is before a prescribed authority, the prescribed authority can control whether questioning occurs by controlling whether the person is present before the prescribed authority.

(2) This section does not permit questioning of the person by a person exercising authority under the warrant at a time when a person exercising authority under the warrant is required by another section of this Division not to question the person.

Example: This section does not permit the person to be questioned when a person exercising authority under the warrant is required by section 34H or section 34HAA to defer questioning because an interpreter is not present.

(56) Subsection 34TA(2), after "satisfied", insert ", on the basis of circumstances relating to that lawyer,".

(57) Paragraph 34TA(2)(a), after "may", insert ", as a real possibility,".

(58) Paragraph 34TA(2)(b), after "may" (second occurring), insert ", as a real possibility,".

(59) Schedule 1, item 24, page 32 (line 1), omit "(whether the adviser is an approved lawyer or not)".

(60) Schedule 1, item 24, page 32 (after line 5), after subsection 34U(2), insert:

Legal adviser to be given copy of the warrant

(2A) A person exercising authority under the warrant must give the legal adviser a copy of the warrant. This subsection does not:

(a) require more than one person to give the legal adviser a copy of the warrant; or

(b) entitle the legal adviser to be given a copy of, or see, a document other than the warrant.

(61) Schedule 1, item 24, page 32 (lines 25 and 26), omit "an approved lawyer other than the legal adviser", substitute "someone else as a legal adviser".

(62) Schedule 1, item 24, page 32 (lines 32 and 33), omit "(whether in connection with the warrant or another warrant issued under section 34D)", substitute "in connection with the warrant".

(63) Schedule 1, item 24, page 33 (line 2), omit "any of those warrants", substitute "the warrant".

(64) Schedule 1, item 24, page 33 (lines 9 and 10), omit "any of those warrants", substitute "the warrant".

(65) Schedule 1, item 24, page 33 (line 13), omit "2", substitute "5".

(66) Schedule 1, item 24, page 33 (line 33), omit "such a", substitute "the".

(67) Schedule 1, item 24, page 35 (lines 22 and 23), omit "(whether in connection with the warrant or another warrant issued under section 34D)", substitute "in connection with the warrant".

(68) Schedule 1, item 24, page 35 (line 26), omit "any of those warrants", substitute "the warrant".

(69) Schedule 1, item 24, page 35 (lines 32 and 33), omit "any of those warrants", substitute "the warrant".

(70) Schedule 1, item 24, page 35 (line 36), omit "2", substitute "5".

(71) Schedule 1, item 24, page 36 (lines 4 and 5), omit "a warrant issued under section 34D", substitute "the warrant".

(72) Schedule 1, item 24, page 36 (lines 8 and 9), omit "(whether in connection with the warrant mentioned in paragraph (a) or another warrant issued under section 34D)", substitute "in connection with the warrant".

(73) Schedule 1, item 24, page 36 (lines 16 and 17), omit "any of those warrants", substitute "the warrant".

(74) Schedule 1, item 24, page 36 (line 20), omit "2", substitute "5".

(75) Schedule 1, item 24, page 36 (after line 20), after section 34V, insert:

34VA Lawyers' access to information for proceedings relating to warrant

The regulations may prohibit or regulate access to information, access to which is otherwise controlled or limited on security grounds, by lawyers acting for a person in connection with proceedings for a remedy relating to:

(a) a warrant issued under section 34D in relation to the person; or

(b) the treatment of the person in connection with such a warrant.

(76) Schedule 1, item 24, page 37 (after line 4), at the end of Division 3, add:

34Y Cessation of effect of Division

This Division ceases to have effect 3 years after it commences.

(77) Schedule 1, item 27D, page 39 (line 3), omit "as soon as possible after the third anniversary", substitute "within 30 months".

Mr WILLIAMS (Tangney—Attorney-General) (12.01 p.m.)—I would like to indicate to the House that the government proposes that amendments Nos (1) to (15), (17) to (22), (24) to (29), (31), (35), (36), (38) to (56) and (59) to (77) be agreed to; that amendments Nos (30), (33), (34), (37), (57) and (58) be disagreed to; and that amendments Nos (16), (23) and (32) be disagreed to; but that amendments be made in place thereof. I suggest, therefore, that it may suit the convenience of the House to first consider amendments Nos (1) to (15), (17) to (22), (24) to (29), (31), (35), (36), (38) to (56) and (59) to (77); then consider amendments Nos (30), (33), (34), (37), (57) and (58); and, when those amendments have been disposed of, to consider amendments Nos (16), (23) and (32). I move:

That Senate amendments Nos (1) to (15), (17) to (22), (24) to (29), (31), (35), (36), (38) to (56) and (59) to (77) be agreed to.

In addressing these amendments, because there are intrinsic relationships between all of the provisions under consideration, I propose to generally address them all. The government's position on the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] has always been emphatically clear. We need this legislation to give our intelligence agencies vital tools to deter and prevent terrorism, and we have never wavered from this position. Our persistence has finally paid off. Thanks to the government, ASIO will finally

get the tools it needs to identify—and, more importantly, prevent—planned terrorist attacks. I welcome the opposition's decision to finally put aside political game playing in favour of national security and support the passage of this important counter-terrorism legislation.

However, it must be said that the debate on this vital bill has been marred by misinformation from the opposition benches and a lack of understanding of how the bill works. Just last week, despite a public commitment to support passage of the bill without further delay, the opposition found itself in a tangle when, during the debate on the bill, it claimed that it had only just discovered that there was a capacity under the bill to seek second and subsequent warrants. No-one else was under the misapprehension that a person who had been the subject of a warrant under the bill would be immune from being the subject of a second or subsequent warrant. It was clear on the face of the bill. The Australian Greens understood it, the Democrats understood it and opposition members on the Senate Legal and Constitutional References Committee appear to have understood it as long ago as November last year. Yet, if their public pronouncements are to be believed, this was lost on the senior members of the opposition tasked with the carriage of the opposition's position on the bill.

In an attempt to cover up their mistake and the political tussle within the opposition which ensued, the opposition has tried to paint this as a government mistake and a loophole, but nothing could be further from the truth. It has always been the government's position that there would be a capacity to seek and issue further warrants, provided that the strict conditions set out in the bill for the issuing of the warrant were met. That was the case under the current bill and previous versions of the bill. The government has always been clear. While the length of time under one warrant period is limited to a continuous period of no longer than 168 hours, we have never said that a new warrant could not be sought or issued, provided that the strict criteria under the bill were satisfied. In fact, we made it abundantly clear that we do not accept that a person who has been the subject of a warrant is then immune from being the subject of further warrants for any period of time.

The government rejected amendments proposed by the Senate references committee which would have prevented the granting of a further warrant for the same person within seven days of the end of the warrant period—in effect, the seven-day immunity period. The government has always made it emphatically clear that it could not agree to any such immunity. Any bar of subsequent warrants would effectively act as immunity, could impede investigations in urgent circumstances and could potentially allow terrorists to perpetrate terrorist acts with immunity for seven days. Indeed, the government has always maintained that to do so would potentially play directly into the hands of terrorists.

Thankfully, the opposition now agrees that a moratorium or immunity period is not appropriate. I note in particular Senator Ray's comments on this point in the other place. However, some members of the opposition continue to insist that the government asserted that the bill granted such a moratorium. In debate in the Senate, Senator Faulkner repeatedly quoted me accepting the proposition that a person could not be detained for a continuous period of more than 168 hours. Senator Faulkner attempted to paint this as an assertion that a person could only be held for 168 hours total—ever, end of story. In his hurry, Senator Faulkner overlooked a vital word—and that was the word 'continuous'. The government has always been clear that the length of time under a

warrant period is limited to no longer than a continuous period of 168 hours. Warrants cannot be rolled over at the end of this period. We have never said that a new warrant could not be sought or issued. Yet Senator Faulkner repeatedly suggested during recent debate on the bill that the government had somehow suggested that, once the 168-hour period had been exhausted, no further warrants could be sought, and that person would effectively be immune. That is a proposition that I emphatically deny.

Notwithstanding that the government maintains that the effect of the legislation has always been clear on its face and that to deny the opportunity to seek further and subsequent warrants would play into the hands of terrorists, the government moved amendments to further detail this on the face of the bill, having regard to the opposition's public undertakings to pass the bill without delay. The government's amendments make clear the specific test to be applied when a second or subsequent warrant is sought and will ensure that the Inspector-General of Intelligence and Security exercises his statutory power to review the material on which a warrant is based. While we do not believe any more amendments are necessary, we did this to secure passage of this vital bill in the face of a divided opposition. The government has bent over backwards to accommodate sensible suggestions that strengthen and enhance the operation of the bill. But the Australian community demands that our counter-terrorism laws be strong and certain. That is why the government is rejecting a number of the opposition and Democrat amendments that passed the Senate. *(Extension of time granted)*

In rejecting these amendments I would like to outline some of our reasons for doing so. The government will be insisting on its proposals in relation to the length of time a person can be continuously detained under a warrant being 168 hours. We do not accept amendments that have reduced this period to 72 hours. We do not support amendments that seek to reduce the effectiveness of the questioning regime. Let us not lose sight of the primary purpose of this bill: the gathering of intelligence to help prevent and deter terrorist acts. Under the government's proposal, a warrant would allow a total of 24 hours of detention for questioning in eight-hour blocks over a maximum period of seven continuous days, or 168 hours. The opposition seeks to reduce that period of time to three days, or 72 hours. What the opposition is suggesting is that questioning will need to cease when the maximum period of time—this arbitrary figure of 72 hours—has passed, with little regard to how this may impact on an investigation.

The opposition appears to have simply plucked a figure out of the air and decided that this is the amount of time our intelligence agencies need to do their job. Our intelligence agencies tell us differently. The opposition's proposal does not afford any greater protection to the person being questioned under the bill; it simply reduces the period of time in which important information can be obtained. Let us not forget the significant safeguards in the bill. There are, to quote Senator Ray, 'as many hurdles as the Grand National Steeplechase'. Let us not forget that any person can voluntarily give ASIO information they may have without the need for detention. Let us not forget that the questioning time is controlled by the prescribed authority and that, once 168 hours is the total maximum continuous time that a person can be detained, a protocol will place further parameters around the questioning process.

Let us not forget that last December the opposition moved amendments to the detention and questioning regime that provided for a maximum possible period of detention of

seven continuous days. The opposition is now seeking to introduce further limitations which go beyond those it was prepared to accept last year. They accepted this time period then but again appear to have changed their minds. The strong safeguards in the bill have been debated exhaustively. The government has bent over backwards to include an extensive range of safeguards and accommodate sensible suggestions that improve the bill without undermining its effectiveness. But we cannot, and will not, accept an amendment that will do just that and that is being put for no good reason.

We do not accept the opposition's proposal to remove notes to subsections 34G(4) and (7). These notes clarify that a defendant bears an evidential burden of proof in relation to proving that they do not have information or records that they are required to give or produce in accordance with a warrant when appearing before a prescribed authority for questioning. This is not the same as reversing the onus of proof. This does not remove the legal burden from the prosecution to prove the elements of an offence beyond reasonable doubt. It is an evidential burden only. The person merely needs to adduce evidence that there is a reasonable possibility that he or she does not have the information, record or thing requested. If the person fails to produce the information or record, and the prosecuting authorities decide to press charges on this point, the prosecution still has to prove its case beyond a reasonable doubt.

Commonwealth criminal law policy is that it should only be allowed in cases where the matters to be proved are peculiarly within the knowledge of the defendant and are difficult and costly for the prosecution to disprove beyond a reasonable doubt. This policy is reflected in section 13.3 of the Criminal Code. Subsections 34G(3) and (6) create an offence of failing to give information or produce records or things requested in accordance with a warrant when appearing before a prescribed authority for questioning. If a matter is peculiarly within the defendant's knowledge—such as the possession or otherwise of information, a record or a thing—in instances covered by the bill, it will be within his or her ability to prove or disprove that matter. However, these offences will not apply if a person does not have the information, or possession or control of the record or thing. This means that, to rely on the exceptions to the offence, the person will only have to adduce evidence that suggests a reasonable possibility on the balance of probabilities that he or she does not have the information, record or thing requested. These notes merely draw attention to the effective existing provisions in the Criminal Code and should remain in the bill.

A key aim of this important legislation is to enable ASIO to question people in emergency terrorist situations in order to obtain the information we need to stop terrorist attacks before people are hurt or killed. While the government has already included a comprehensive set of safeguards against abuse in the bill, we were committed to securing passage of the bill and to considering changes that do not undermine the workability of the bill. We have always said that we recognise that this bill is extraordinary; indeed, I have indicated repeatedly that I hope the powers under the bill never have to be exercised. But this bill is about intelligence gathering in extraordinary circumstances and is subject to significant safeguards. *(Extension of time granted)*

The government has demonstrated time and time again its commitment to community safety. The government has responded positively to recommendations from three parliamentary committees, addressing concerns raised where they did not undermine the effect of the bill. But until last week the

opposition continued to insist on amendments that would have rendered the bill unworkable. For the sake of community safety, the government moved to break the deadlock by developing a set of amendments that addressed the opposition's key sticking points without destroying the workability of the bill. These amendments were accepted by the opposition, which gave a public undertaking last week to support the passage of the bill. Despite this, further issues were raised this week, which have now been resolved following determined government negotiation.

I now call on the opposition to make good their public commitment to support passage of the bill without any further delay. Then ASIO can get on with the job of protecting Australians and Australian interests against terrorism and other threats to our security.

Mr CREAN (Hotham—Leader of the Opposition) (12.13 p.m.)—This is the speech that we should have heard from the Attorney-General at least six months ago. This ASIO bill now finally gets the balance right. It is a significantly different bill from that introduced 15 months ago by the government. It is the bill that the government should have introduced in March last year and it is the bill that it could have had passed in December last year. Remember those marathon sittings, and the dithering of the Attorney-General and his incompetence? Remember the passage by the Senate of, effectively, the bill we have before the House—and that they would not pass it? The Prime Minister of this country, at the end of his speech, said:

> If this bill does not go through and we are not able to clothe our intelligence agencies with this additional authority over the summer months it will be on the head of the Australian Labor Party and on nobody else's head.

That is what the government wanted to do. It did not want a constructive outcome. It wanted to play wedge politics, as it has always done with these issues. Whether it is detention of asylum seekers or terrorism, the government is interested in playing politics but not in coming up with constructive solutions.

The Prime Minister talks about 'over the summer months', but the summer months have gone, the autumn months have gone and the winter months have almost gone, and finally the legislation is back before the parliament. What did the government do last year? It withdrew the legislation—legislation that is now, essentially, back before us and that was offered to the government last year. The government withdrew that legislation and waited three months so that it had a double dissolution trigger around it. That is what it did. The Attorney-General laughs, but he knows that this is right. If this legislation is so important—and it is—why didn't the government pass it in December? Why didn't it reintroduce it as a matter of urgency when this House resumed in February?

Labor, all the way through, did not flinch in our commitment to get the balance right in this bill. As a result of the government's delay, Australians in the intervening period were left without the protection the bill now provides. The government has now moved significantly towards Labor's position, and we have always argued that you can protect Australia while still protecting the Australian way of life. We do need tough new powers to stop terrorists and terrorism, but we should not compromise our basic democratic rights and freedoms in the process. It has been Labor's insistence on these principles that has seen the legislation finally get the balance right.

It is true that we must have strong new security laws to protect Australians from international terrorism. That has been the consistent position that we have held since the shocking events of September 11. The world did change then. Terrorism became the awful force that was demonstrated there and in

Bali. Terrorists are an insidious group of people. They have no regard for human rights or human life. They are murderers who have no rules. These are circumstances that we do have to deal with.

How do you best deal with terrorists? You have to have unequivocal support for our police and intelligence-gathering capacity to target the terrorists and protect Australians. That is why we support enhanced powers and additional resources for our intelligence-gathering agencies. Labor got the balance right in relation to the terrorism bills—bills by which the government wanted to give executive authority to the Attorney-General to proscribe organisations. We have got that legislation right, despite the fact that the government insists on trying to give those same executive proscription powers back to the government. We have seen the advantage of cooperation by the federal police with international agencies. It has been on display in Bali, where it has brought the perpetrators of that heinous crime to justice. That is the sort of cooperation we have to support, encourage and back.

It was Labor who introduced the Hezbollah bill to identify the specific organisation—though the Attorney-General pops his eyes in amazement. *(Extension of time granted)* It was the Prime Minister who wrote to me in relation to Hezbollah in early April and then did nothing by way of legislation in the parliament. It was Labor who introduced the private member's bill, and at the end of the week the government had adopted that bill.

Mr Williams—We had something.

Mr CREAN—Oh, yes: 'We had something'! Why wasn't it here when you wrote the letter? Why wasn't it here when the parliament returned? Why wasn't this bill before parliament in February? Why didn't you agree to this last December at the midnight session? The point, Attorney-General, is that you want to talk tough on these issues but you do not want to act tough. It is not in your interest to actually come up with a solution if you can continue to drive a wedge and fear into the community. People have to be given confidence that the legislation gives intelligence-gathering authorities the resources and powers to tackle terrorism.

We did not just initiate the Hezbollah bill. We have also called for the establishment of a department of homeland security. We have called for the creation of a national security adviser so that we can coordinate and give direct advice to the Prime Minister and his cabinet. We have also argued for a regional summit of the heads of government in all of our regional areas to be convened by this government. We have to fight terrorism together. No one country has the solution to it. We need the commitment of heads of government. The regional summit is an initiative that this government should still pick up.

This legislation is part of the war against terrorism. But, as I said, it could have been passed six months ago. There has been stubborn rejection by this government of worthwhile initiatives that came as a result of two parliamentary committees. What we have today is a bill substantially the same as that passed by the Senate last December. What the government then said was unacceptable—what the Prime Minister stubbornly refused to accept then—is now reflected in the bill before us.

Why was the Labor Party so strong in its opposition to what the government was continuing to put forward until now? In its original form, the bill would have undermined key legal rights and eroded the civil liberties of Australian citizens. It is important to remind the House, as we consider this legislation now, of some of the measures that were proposed by the government in its first legislation. When it introduced it on 21 March 2002, the government wanted a bill

that did not place any age restrictions on those who could be detained or questioned by ASIO. The original bill would have allowed ASIO to indefinitely detain any Australian without charge or even suspicion. While detained they could be strip searched, questioned for unlimited periods and prevented from contacting family members, their employer or even a lawyer—not even to say that they had been detained. Under the government's original ASIO bill, a 10-year-old girl could have been held in detention by ASIO in secret and alone.

Unbelievable as this may sound, this was the government's first proposition. It was unacceptable and we would not accept it. Not only would Labor not accept it but also the vast majority of Australians would never accept it. The measures rejected by us no longer appear in this bill. The bill does apply to young people aged 16 and 17, but only if they are suspects—not, as previously proposed, if they are nonsuspects. We also argued that the period and conditions of questioning should be comparable to those permitted under the Crimes Act. We welcome the fact that the government has backed away from its original proposal and has accepted these principles.

The latest hiccup that held this bill up this week was the government's attempts to get rolling warrants introduced into the legislation. We insisted that they could not have rolling warrants, and that capacity no longer appears in the bill. Indeed, if there is to be an additional detention, it has to be based on additional and materially different information. *(Extension of time granted)* The significance of that is that what could have happened under the rolling warrants scenario was the establishment in this country of a Guantanamo Bay, Camp X-Ray type detention. That is not what Australians wanted and it is what the Labor Party insisted we would not have. I am delighted that that has not been persisted with by the government.

Whilst the Senate has sent back amendments and it is the intention of the Labor Party to not insist on these amendments at this point for the purposes of getting the bill through, I want to place on record the intention of the Labor Party, when elected, to amend the act to ensure that custody is limited to a maximum of 72 hours under each warrant and to remove the reversal of the onus of proof for elements of some of the offences. We believe that this bill is not perfect, but it is a substantial move in the right direction. I am flagging those two initiatives to indicate what we would do in government.

The job of smashing international terrorism is far from over. We want to hunt down and arrest the terrorists—but only the terrorists. We want to protect at the same time peaceful, law-abiding Australians from infringements on their rights. Throughout Labor's proud history and throughout this entire debate—and despite the terrible events of September 11 and in Bali—Labor has refused to play politics with our national security. At all stages of this debate Labor has offered practical, workable solutions to the government's proposals, and I have outlined some of them.

But you have to ask yourself: if the government is so intent on stopping terrorism and protecting our citizens, why hasn't it adopted initiatives that Labor has put forward, such as improving airport security, particularly in regional Australia? The member for Braddon still has not got the regional security checks at his airport. You have to ask: why is it, if the government talks tough about these initiatives, that it does not do something to protect our citizens? It still has not provided our ports with the capacity to screen shipping containers; it has not created a coastguard to stop the drug smugglers, the people smugglers and the gun smugglers;

and it has not introduced a green card to help us track down illegal workers. These are initiatives of practical, substantial impact for the defence of our borders.

Our intelligence is not being properly coordinated to protect our people. The head of ASIO himself has admitted that Bali was a failure of intelligence, yet this government has resisted all attempts at inquiries into what can be done to improve it. Thankfully, those inquiries are proceeding. This legislation is a significant and major defeat for the government's attempts to use the ASIO bill as a political wedge. In the name of protecting civil liberties, this government has continually gone too far with its proposals, which would have, if they had got up, undermined civil liberties in this country. The government ignored widespread public opposition to the bill when it first introduced it, and it has only been through persistent negotiations and a willingness to seek the best possible outcome that Labor have managed to get the balance right on this bill. Have no doubt, the government has been forced to withdraw or amend major elements of this legislation to meet Labor's and the community's concerns. We have made this legislation better; the bill does strike the right balance between security and protecting our rights.

The legislation does give ASIO important new powers. In fact, those powers go further than equivalent laws in the US and the UK. ASIO now has the power to question individuals about possible terrorist activity in Australia. Those powers are warranted, given the uncertain circumstances we face. They are tough new powers for the new strategic circumstances we as a nation face not only here but in our region. *(Extension of time granted)* ASIO already has extensive powers to investigate terrorist activities, including use of telecommunications interception, listening devices and, tracking devices; covert searches; and inspection of personal items.

But this bill is radically different from the one presented in March 2002. It no longer allows for the detention of young children. It ensures legal representation. It does not permit indefinite detention. It allows for high-level judicial supervision of ASIO and its questioning procedures. This legislation has a requirement for ASIO to provide detailed statistics on the use of these powers in its annual report. Perhaps most importantly of all, there is a three-year sunset clause, after which time the legislation will be reviewed.

Extraordinary times call for extraordinary measures. This bill was needed 18 months ago. The government should have done better to come up with laws that will provide new protections against terrorism and the threat of it. They have failed in that task because they have only wanted to play politics with the issue. We welcome the fact that the government have now agreed to amend this legislation. It gets the balance right, and we will be supporting it.

Mr MELHAM (Banks) (12.30 p.m.)—The Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] before the House today is a very different beast to the bill first introduced by the government. Labor's opposition to the original bill was based on very simple, yet very important, principles: that no democracy should allow its state agencies to detain nonsuspects, including children, incommunicado and without access to a lawyer. The government has come a long way since that original bill and it has put in place many of the safeguards sought by Labor.

I would like to describe those safeguards to the House. First, the Director-General of ASIO must satisfy both the Attorney-General and a judge, acting as the issuing authority, that the warrant will substantially assist the

collection of intelligence in relation to a terrorism offence and that relying on other methods of collecting intelligence would be ineffective. Two, a person gets a lawyer of their choice to represent them. Three, a person retains every legal right to take action in the Federal Court in relation to their custody or any alleged abuses of the warrant. They can do that at any time while in custody and must be informed of that right every 24 hours. Four, questioning is supervised by a prescribed authority, who is also a senior judge or retired senior judge. All questioning must be conducted before the prescribed authority. They can make directions as to any aspect of the person's detention, including that a person be released at any time. Five, the Inspector-General of Intelligence and Security may be present during questioning. The inspector-general has the power to intervene in questioning and may raise any concerns they have directly with the prescribed authority. Six, the inspector-general must audit all aspects of the consent to, issuing of and questioning under any additional warrants. The inspector-general then reports on the outcomes of their audit in their annual report, which is tabled in parliament. Seven, the bill has a sunset clause that will kick in after three years.

Dealing with the issue of additional warrants, there are some very specific safeguards. First, they provide a requirement that the Director-General of ASIO must provide the minister with a new statement of facts and other grounds to justify any new warrants. The statement must include details about the operation of previous warrants. The new information must be able to satisfy the minister that the issue of the new warrant is justified by materially different information or information additional to that known to the director-general at the time he sought the minister's consent to request the issue of the last warrant. Second, they provide a requirement that the minister must be satisfied of that matter, as well as the matters that applied to the first warrant. Three, they provide that the issuing authority must also be satisfied that the issue of the new warrant is justified by materially different information or information additional to that known to the director-general at the time he sought the minister's consent to request the issue of the last warrant. Four, very importantly, they provide that the issuing authority must be satisfied of an additional matter—that is, that the person in question is not being detained in connection with one of the earlier warrants. Five, they provide a new section stating explicitly that a person may not be detained under this division for a continuous period of more than 168 hours. I note that the explanatory memorandum states clearly that this means that a person must be released after the questioning period is concluded.

In summary, a person may be the subject of more than one warrant, but only if there is new or materially different information. Basically, there need to be fresh grounds for a new warrant. Put simply, this means that a person cannot be held in continuous detention by ASIO. There cannot be rolling warrants.

I commend the amendments to the House. I reiterate something which the Leader of the Opposition also said: there are a number of amendments that the opposition successfully moved in the Senate, which the government will not be agreeing to—the main one being bringing the period of detention from 168 hours back to 72 hours. Unfortunately, the government will not agree to that, but the Labor Party's commitment is to revisit that matter should we win government.

Mr McCLELLAND (Barton) (12.35 p.m.)—The Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] now before the House is a radically different bill to the one

presented in March 2002. As a result of Labor's pressure over the last 12 months, a number of the more draconian aspects have been removed from the bill. For instance, gone from the bill is the power for ASIO to detain and strip search young children; gone is the denial of legal representation; gone is the capacity for ASIO to hold someone indefinitely; gone is the capacity for ASIO to hold someone in secret; and gone is the capacity for indefinite detention through rolling warrants. Now included in the bill is high-level judicial supervision. Also included are three strong review mechanisms of the operation of the bill itself—namely, a three-year sunset clause; a detailed process of parliamentary review on the operation, effectiveness and implications of the act; and a requirement for ASIO to provide detailed statistics in its annual report on the operation of the regime, with that report to be tabled.

Labor has been successful in changing the detention regime to a questioning regime with proper protocols; clearly defined questioning periods, meal breaks and sleep breaks; and videotaping of interviews to protect people from improper conduct. In other words, basic legal rights—which were completely absent from the government's first bill—have now been included.

The specific safeguards regarding the questioning regime include, firstly, that before consenting to a warrant the Attorney-General must be satisfied that relying on other methods of collecting intelligence would be ineffective. If the warrant being sought requires a person to be taken into immediate custody, the Attorney-General must also be satisfied that the person may alert another person involved in a terrorism offence of the investigation, that the person may fail to appear before the prescribed authority or that the person may alter or destroy a record or thing that he or she may be requested to produce. Importantly, if the warrant concerns a person between the ages of 16 and 18 the Attorney-General must also be satisfied on reasonable grounds that the person will commit, is committing or has committed a terrorist offence—in other words, that they are actually involved in that activity; that they are actually a suspect rather than a nonsuspect.

Further, questioning will be supervised by a prescribed authority, who will be a senior retired judge, perhaps a serving judge or possibly the president or a deputy president of the Administrative Appeals Tribunal. A warrant cannot allow more than a total of 24 hours questioning in eight-hour blocks over a maximum period of seven days and is subject to the protocol governing the questioning process. A person cannot be detained beyond the seven-day period, although a fresh warrant can be issued if it is based on additional and materially different information to the earlier warrant. That is a significant issue that has been the subject of negotiations in recent days. The person will also have access to a lawyer of their choice, with safeguards to protect highly sensitive, security sensitive information.

There are also safeguards applicable to the questioning process, including that, when a person first appears before the prescribed authority, they have to be advised of their rights to seek assistance from the Commonwealth Ombudsman and the Inspector-General of Intelligence and Security or to seek judicial review before the Federal Court of Australia. The bill also contains a special regime for the questioning of young people; namely, that they have to have a parent or guardian present with them and that they cannot be questioned for more than two hours.

The bill generally contains safeguards and procedural measures that were not in the original legislation. They would not be there now without the Labor Party. The bill now

seeks to balance the need for the government of the day to protect the security of its citizens and institutions, and is now more in keeping with our democratic principles in respecting the rights of citizens to fundamentally be let alone by government unless the exceptional circumstances contained in the bill exist. This bill is now far more balanced, and for that reason the opposition will support it.

Mr BEAZLEY (Brand) (12.40 p.m.)—Rightly, most of the people speaking in the debate today on the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] will focus on the changes that have been put in place as a result of Senate scrutiny of the bill and scrutiny by several committees of the parliament over the course of the last 15 months. Important things have been achieved by them to ensure that the bill is compatible with decent practice in a democratic community such as ours, bearing in mind that what is being passed here to, in this case, ASIO is a level of power and authority that the American FBI—which, arguably, has an even more substantial terrorist threat to deal with—could only dream about.

What is passing through this parliament is a substantial increase in the powers of ASIO to conduct a regime of inquiry of those who may have information about potential terrorist threats to this country. So, rather than speak, as the previous opposition speakers have, to the substantial amendments that have been negotiated, in particular between the Labor Party and the government, I would like to set the bill in context. If one listens to the various protections that are being put in place and looks at them solely, one might well ask, 'Why on earth are you doing this?' and 'What is actually going on here?' I think that putting it in context is a most important thing to do.

We are attempting here to assist in the protection of the Australian community against a known threat. The consequences of that threat have already been demonstrated starkly in events on September 11 and, particularly as far as Australians are concerned, on 12 October last year in Bali—and less starkly in myriad different ways in many countries around the globe who have experienced terrorist incidents over the course of the last few years. We have a definite identified threat to this country. It is a threat posed in the first instance by al-Qaeda but also by a number of affiliated organisations, particularly Jemaah Islamiah—an operation essentially centred in South-East Asia and which classifies Australia within one of its regions which it calls Mantiqi 4. Its intention is to establish a South-East Asian caliphate. Its model, I suppose, is that which inspires most of the organisations affiliated to al-Qaeda, which is a worldwide Islamic caliphate.

There is virtually nothing in our system of government, the rights that we accept and demand and the notion of the way in which we interact as a community, which has any common feature with the image of the world and the image of public life that exist in the minds of those who are devotees of organisations affiliated with al-Qaeda. The threat to the way in which we see the world is total; the ability to compromise and arrive at agreement is negligible. Therefore, a defence has to be mounted. But, in the end, you cannot protect things—for example, we can get Sydney Harbour Bridge protected and we can get the Opera House protected, and then a building in the CBD may go up. You can only attack terrorists and respond to the consequences of their actions when you fail to detect them.

In the case of attacking terrorists, this is about securing timely information from people who may know. People who may know include a vast array of people in the commu-

nity who may not themselves necessarily be engaged in attacking us or have any intention of attacking us. We have, over these last few years, increasingly attracted the attention of would-be terrorists. We start, of course, by simply being who we are, and we then move on to the involvement we had in East Timor, the involvement we had in Afghanistan and the involvement we have in Iraq. Those who know about and monitor these things see Australia featuring more and more in sermons in mosques in South-East Asia and the Middle East and in chatter between terrorist groups that are effectively monitored. We are moving up the scale of potential targets for those who engage in terrorist activities, and we therefore need a few responses.

We have some in place that enhance the resources of our security agencies and we have additional resources for responses should a terrorist incident occur. But we also need to ensure that the best possible advice and the best possible knowledge is obtained by our security intelligence services with the best possible democratic protections around it. This bill materially assists in that regard. It is now clothed with adequate civil libertarian protections. *(Extension of time granted)*

I want to praise those on the Labor Party side who engaged in the negotiations with the government, particularly Senator Faulkner and Mr Melham. This was a difficult exercise for them. It is not what those who are elected to parliament in the Labor Party's interest necessarily think they will be devoting their attention to at any particular point in time. Some, like myself, assume that, but I am not necessarily a particularly typical Labor Party member of parliament in that respect. So the fact that we have seen a negotiation conducted by the two parties I referred to has been one of the more intriguing things in the history of the Labor Party's consideration of security matters in recent times.

But why did they do it? They are seized of the sorts of threats that I have been talking about. They understand that, whatever may be the background to the mental attitudes that they bring to these processes—and they have deep concerns about the civil liberties of Australians and rightful suspicion that these can be readily overthrown—they also understand the wider picture. They understand the context. They understand that these threats are real and demonstrable and not simply a chimera. That is why it is absolutely essential that, when these things are discussed in this parliament, it should not be as part of what is termed by the cliché 'wedge politics'. It must be part of a devoted effort by government to secure the maximum possible support behind the initiatives that they put in place. You have to do unusual things when you are confronting a terrorist threat. It is so important that when you do those things your motives are seen as pure and not tainted by an effort to divide the community. That is so important because, in the end, part of the essential defences against a terrorist threat to our society, a threat to the whole of our society and our values, means that all sections of society—whatever their political views; whatever their views about civil liberties and the extent to which they ought to be trampled on—have to be in the cart. That is an important part of the response to terrorism. It was important that those negotiations took place and that this did not emerge, as many of us perceived it would, as an opportunity to drive a wedge. I believe that the timing of this legislation seemed to be related less to its urgency and more to its possibilities as a double dissolution trigger.

We on this side of the House have always been prepared to pass something like the bill we are now passing, but there has been a mix of motives apparently emanating from the government. Fortunately, the views in the hearts and minds of those in the government

who saw this essentially as a community protection issue as opposed to a political opportunity have prevailed, and the setting in place of a double dissolution trigger around this has been sacrificed in the interests of getting in place a decent piece of legislation that protects and enhances the community. In that regard, I offer words of praise to the government's Attorney-General—who has been presented with those possibilities and choices—and anyone else that he happens to be relating to in the government's cabinet and national security processes. In the end they have chosen outcome over wedge. That is a very important thing to do in the national security area—an absolutely critical thing to do.

This war is not going to go away. There is a sunset clause in this legislation. When that sunset clause is terminated, we will be having this discussion again and we will be renewing the legislation. I do not expect this threat to go away in the course of the next few years. In the circumstances where we are going to have to review this legislation and probably renew it, that it should start with the maximum possible support from the parliament and the least amount of motivation to drive wedges in the process for the purposes of political gain means that it will be better for the safety and security of the Australian people.

Mr BRENDAN O'CONNOR (Burke) (12.50 p.m.)—The member for Brand is absolutely right. We do need legislation that is going to protect our citizens in this country, and that is why Labor will support the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2]. However, we also have to consider, in the broader sense, that we ensure that we properly reconcile the need to have decent laws that will protect our citizens and that will also ensure that those laws protect the freedoms that we enjoy. That tension between protecting those freedoms and protecting our citizens against the threat of terrorism is not an easy tension to resolve, and I accept that. In the last 12 months or more, in the discussions that we have had and the debate and resolution of the antiterrorism bills, we have seen that, in the main, the government and the opposition have worked well to get those things right. But for some time there was a game played by the government with regard to this bill and the way that it has been used.

There are some issues that the Leader of the Opposition, the shadow minister for justice and others have raised that really concern Labor. It is very important for me, on behalf of my electorate, to record some of those issues about where we have come from with respect to this bill since it was first introduced by the government. It is fair to say that, when the bill was first introduced, there was a chance that nonsuspects could potentially be detained indefinitely. That was something that Labor would never, ever support. I am happy to say that that is no longer the case in the bill.

It is also fair to say that there was never any guarantee of proper legal representation, which I think is a threshold matter. Again, through the opposition's efforts in particular, we have ensured that the government has acceded to the need to have proper legal representation for nonsuspects being detained and questioned. So access to lawyer of choice, with safeguards to protect security information—which has now been agreed to—is a satisfactory resolution to the tension that I referred to about protecting our freedoms as against protecting our citizens against terrorism.

It also important to remember in the context of this debate that the initial bill introduced would have allowed for the detaining of persons without any minimum age limit. As the Leader of the Opposition indicated, it

would have been quite possible to strip search a 10-year-old child under the original provisions of this bill when it was first introduced. I am happy to say that that has now been changed, and the only minors who can be interviewed are 16- or 17-year-olds. They would have to be suspects and, as the shadow Attorney-General indicated, they would have the right to have their parents or guardians present. The safeguards that have been put in place by the opposition and acceded to by the government have made this a better bill. The issue of onus of proof is not resolved but has been foreshadowed by the Leader of the Opposition as something that we would seek to amend. The reverse onus is not satisfactory and I think it should be reconsidered.

As the shadow minister for justice said, the bill is now a fundamentally different creature from the one that was originally introduced by the Attorney-General. It is through the efforts of this parliament—and in particular those of a number of people in the opposition, who have sought those changes and effectively resisted the temptation to accede to the demands of the government—that we now have a better bill.

Finally, I want to touch on the issue of warrants—which was a sticking point in the Senate. There are now some specific safeguards in place with respect to additional warrants. Firstly, there is a requirement that the Director-General of ASIO provide the minister with a new statement of facts and other grounds to justify any new warrants. The statement must include details about the operation of previous warrants, and the new information must be able to satisfy the minister that the issue of the new warrant is justified by materially different information or information additional to that known to the director-general at the time he sought the minister's consent to request the issue of the last warrant.

Secondly, there is a requirement that the minister must be satisfied of that matter as well as the matters that applied to the first warrant. Thirdly, the issuing authority must also be satisfied that the issue of the new warrant is justified by materially different information or information additional to that known to the director-general at the time he sought the minister's consent to request the issue of the last warrant. *(Extension of time granted)* Fourthly, and very importantly, the issuing authority must be satisfied on an additional matter—that is, that the person in question is not being detained in connection with one of the earlier warrants. Finally, there is a new section stating explicitly that a person may not be detained under this division for a continuous period of more than 168 hours.

I conclude by saying that the contributions made by this side of the chamber clearly show that Labor considers this a very important issue. The member for Brand quite rightly has said that we cannot allow the country to continue without proper laws that will provide proper security for our citizens, threatened by acts of terrorism. I think that is the foremost matter that has to be considered in relation to this bill. To get the right balance and ensure that the tension that I mentioned has been properly reconciled, you need to ensure—I know that it has become a cliché these days to make these comments—that the freedoms we enjoy, the country we are, do not change fundamentally. Clearly, if they do, those terrorists have won, in a sense, because they will have made us sacrifice things that we hold dear to our hearts in order to protect our citizens.

Mr KERR (Denison) (12.56 p.m.)—Legislation of this kind ought never to be passed by a nation save under grave threat. The threshold question is: are we such a nation? I think that it is the consensus of this House that we are. That said, we must reflect

that the only circumstances in which the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] should be permitted to stand is whilst those circumstances remain. Otherwise, not only is it a breach of the kind of civil liberties that have been spoken of so correctly and powerfully but also it would lack constitutional foundation. The only basis upon which such legislation can be passed through this House is pursuant to the defence power or perhaps—and I put it only hypothetically—to a power that flows from the inherent status of nationhood. The limits of the defence power and the other powers that might exist have been demonstrated in the Communist Party dissolution case—that is, this House itself cannot determine on a subjective basis as to whether such a threat exists but rather it is a matter of objective fact.

I do not think that, with the kinds of threats that the honourable member for Brand has identified, any court would say in the current circumstances that such an objective circumstance does not exist. But I do differ from my colleague the member for Brand when he says that in three years time we will come back here with our sentiment disposed to renewing it. My sentiment will be to remove it entirely from the legislation of this parliament and from any future parliaments, unless there is a demonstrated case that that same objective threat remains.

I might make what is perhaps a brazen political point here, but the fact that we face an increased threat is largely because of reaction to the kinds of policies that this government has pursued—a point which the Minister for Foreign Affairs denigrates. The claim made by the opposition that our involvement in the Iraq war would increase the threat of terrorism to this country was sneered at. But the practical reality we now face is the growing realisation that there is significant and continuing pressure, at least in the short term. That may mean that we in this nation, within our own borders, face the kinds of horrors that occurred to Australians in Bali.

In that framework we are faced with a conundrum. Inevitably, any legislation which compels people to go into custody and be subject to questioning confronts us because that is not normally permitted in our legal system unless there is a proper basis for their suspicion, and there are very limited circumstances wherein police questioning can be permitted. As a parliament we have accepted that these exceptional circumstances require exceptional responses. But I want to take particular exception to the language of the Attorney-General that characterised the response of the opposition as obstructionism. It is not obstructionism to stand up for fundamental principles that all Australians ought to hold dear and which most do. It is not obstructionism to insist that what was draconian legislation be amended in order to be able to be accepted by this parliament. Indeed, in my own personal view, this legislation, even in its current form, still contains measures which, whilst not draconian as the original legislation was, are deeply objectionable and potentially capable of causing oppression, particularly if they are not applied in a sound and considered way by the agencies to whom we are entrusting such great responsibilities.

There is no doubt that the resistance of this opposition has substantially created improvement to this legislation. Anyone who pretends to the contrary is diminishing the work that has been carried out on this side of the House—particularly by my Senate colleague Senator John Faulkner. I might stress that I have only great admiration for him because he has been seeking to find the balance in this difficult equation. I might also observe that within our own Labor caucus I find myself on another side of a divide. *(Ex-*

tension of time granted) Were it solely at my disposal, I would still be saying that there are yet further issues that ought to be changed so that this legislation complies with a framework that I believe is better adapted to the purpose we are seeking to serve but less objectionable on civil liberties grounds. I will address a couple of those points later.

The point is that as members of this parliament we do exercise our powers and prerogatives in a collective process within this parliament as a whole. I contribute as a member of the Labor Party. I have only the highest admiration for the work of my colleagues and for their thoughtfulness in this process even though, in the end, I think there are a couple of sticking points where I would have said that ground still needs to be yielded.

Let me go to the issue that I still regard as most difficult, and that is the point about continuation of warrants. Under ordinary criminal law, we have put in place a situation where, if a person is suspected of a crime, they can be interviewed by the police. They can be interviewed initially for a period of four hours; once that has been brought to a close, it requires the warrant of a magistrate to extend that period, and it can be extended for another eight hours. For all serious crimes that are committed in this country, that has been shown to be a sufficient period. Changing the regime that permitted extended and longer periods of interrogation is one of the things about which I am most proud in terms of the role I have played over successive parliaments, and it is something I claim personal and direct responsibility for. Since the provision was first introduced, with the videotaping of those records of interviews, there has not been a case put that its extension is required in the interests of law enforcement.

By contrast, in this regime we are going to facilitate a period of detention of up to seven days, with periods of questioning within that, in tranches—albeit with breaks—of up to eight hours and in circumstances where a person is not enabled to go home or to have their freedom. Those of us who have not actually experienced the circumstances and pressures that surround an individual when they are detained probably talk about these things a little glibly. I have been both a prosecutor and a defence lawyer. I have seen and have attended with people who are the subject of interrogation in interviews. I have done that in two countries. I know the kind of hurt, anger, resentment and fear that is engendered in those circumstances and I certainly know how it reflects on families. In circumstances such as this, where people may be absent from their families for a protracted period of time without explanation, I treat these things extraordinarily seriously.

The prospect of not only going beyond seven days, but also then having a renewed warrant issued after release on what is essentially the same set of matters that are the subject of investigation seems to me to be one bridge too far. That is not a judgment that we as a House are going to make; I simply make it and I draw attention to a letter that was written to the Prime Minister yesterday by the President of the Law Council of Australia. In that letter, the Law Council of Australia recommended that the bill not be passed in its current form. It pointed out that the bill applies to the questioning and consequent detention of a person not suspected of criminal behaviour. It stated:

> At the very minimum, the Law Council would submit that approvals and a warrant authorising the questioning of a person already subject to questioning under the regime ... should not be permitted on subsequent occasions unless in addition to the existing tests—

five further tests were satisfied. The tests had the following requirements:

- new information, not previously in the possession of security or police agencies at the time of the initial approval for questioning, is brought before the approving and authorising authorities;
- it is explained why the information was not reasonably available at the time when the initial period of questioning was approved and authorised;
- the information must raise an issue of a substantially different kind from that previously relied upon for the grant of approval and authority to question the person;
- the information must not have been derived from answers provided by the person as a result of the previous questioning undertaken under the regime established by the Bill; and—*(Extension of time granted)*

The Law Council went on to state:

- the subject matter was not substantively canvassed during the questioning which has previously taken place under the regime authorised by the Bill.

The Law Council concluded:

The purpose of these requirements is to ensure that the time limits prescribed in the Bill have meaning. Further questioning on information given during questioning, if not limited, is paramount to endless interrogation.

I think the Law Council made one small mistake: they meant 'tantamount' not 'paramount'. Nonetheless, the points are strong. The language in the letter—I do not take it further—is strong. The Law Council proposed that this parliament not pass the legislation without the addition of those further provisions.

That is not going to be the circumstance that applies after this debate but it goes to the very important point that all speakers have addressed: we are implementing a regime which is extraordinary in its application to Australia. It is extraordinary in the way in which it will subject at least some individuals to treatment by interrogating authorities, to administrative detention in a way which has never hitherto been permitted under the laws of this country. It ought to be seen as only a response to extraordinary situations. It ought to be seen as something which is so exceptional that, when we do come back in three years, we start from the proposition that it should be removed entirely from the statute book unless a proper case for its continuation is made out. This is not the sort of legislation we should treat as something which, once introduced, is simply another part of our political and legal landscape. It is not that. This is exceptional and it is extraordinary, and the only foundation on which it can be based constitutionally is extraordinarily thin if you take that bedrock away.

For those who practise as lawyers the legislation is also going to change the manner and nature of how they do their work. Whilst it is true that a person has access to a lawyer of choice, it is extraordinarily limited in the manner in which they can conduct that responsibility. All their communications with their client must be monitored. That means that the freedom to provide unfettered advice to that client is going to be extraordinarily constrained. This is another matter that we ought to return to. The Leader of the Opposition has indicated that were we in government we would move further amendments, and if we do come to office we will do so, firstly, to reduce the period of questioning to three days; secondly, to overturn the reversal of the burden of proof; and, thirdly, to reduce the period of questioning to 20 hours. These are sensible proposals, not extraordinary ones. They accept the basic proposition that was available from the opposition right from the start: we need to change our laws and to provide additional powers to our security agencies during this period of time.

Nobody on this side of the House, including me, would ever have resisted the Attorney-General coming into this parliament and putting forward a set of propositions that

would have enabled the questioning of nonsuspects for limited periods of time with proper safeguards framed around the results of discussions and consultations with the opposition. That did not happen. Instead we had an outbreak of the wedge politics that the member for Brand and the Leader of the Opposition have referred to. We have had a coruscating debate within the community about legislation that was cast in draconian terms and put out there in order to be drawn back. I do not believe that the exercise has been conducted in any good faith whatsoever. I condemn the Attorney-General rather than congratulate him on the fact that the legislation was proposed in such terms and that we still have legislation to which no previous Attorney-General of this country would have been proud to put their name.

Mr SNOWDON (Lingiari) (1.11 p.m.)—I am pleased to contribute to this debate on the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] if for no other reason than that it is probably one of the most significant pieces of legislation that have been debated in this parliament, certainly in the time I have been here. It places upon us as legislators an onus to represent the community in a way in which we are not required to in relation to most other pieces of legislation. The original legislation, which has been described by one commentator as 'rotten at its core', was extremely draconian. It was contrary to the ethics that are the foundation of our democracy and it was contrary to our understanding of the need to protect our civil liberties. Indeed, as the Leader of the Opposition has said, it undermined them. As legislators, we are the custodians of the law. We have the ability to amend law and to introduce new laws. Here we had a proposition which was going to undermine significantly the civil liberties of all Australians.

The member for Brand articulately demonstrated why it is necessary to have this sort of legislation at this time in our history. Nevertheless, we have a responsibility to ensure that this legislation—which is as important as he says, and he described why it is important in terms of the threat that is posed to us as a community—safeguards the civil liberties of all Australians. I have reason to be very pleased with the way in which the Labor Party has conducted itself in the negotiations since the original bill was introduced. It is worth reminding ourselves of what an eminent law professor has said about the original legislation. Members will recall that in respect of the original legislation George Williams said:

> ... the ASIO Bill as introduced poses as great a threat to Australian democracy as Prime Minister Robert Menzies' attempt to ban communism in 1950. If passed, the Bill may do more to undermine the long term health of our democratic system than any threat currently posed by terrorism.

I think that is an apt description of what the original legislation would have produced. I share some of the concerns expressed by the member for Denison, but it is not beyond the wit and wisdom of this parliament to accommodate those concerns in future legislation. I note in particular the promise by the Leader of the Opposition to revisit this legislation when we achieve government after the next election. It is important that we understand that the Labor Party believe that this is unfinished business. It is unfinished business because we think that there are further measures which need to be introduced into this legislation to ensure, as we on this side of the chamber want to ensure, that our civil liberties are properly safeguarded and that those ethics which are the foundation of our democratic system are reinforced and not eroded.

I would like to remind honourable members that we have come a long way since this

bill was originally introduced. The original bill allowed the incommunicado detention of children. The bill before the House today is a different beast from what was originally introduced by the government. Others have commended the role of those on this side of the House who have been engaged in these negotiations. I want to concur with those commendations, but we need to understand that we, as the parliament—all of us—have a responsibility to have regard to this piece of legislation and take an interest in it. I cannot think of any greater responsibility that, as a legislator, I have in this place than to safeguard the civil liberties of all Australians no matter where they are, who they are or where they live. I am pleased to be able to support this legislation because I do think it achieves the balance that has been described by the Leader of the Opposition and the member for Brand—and, indeed, the shadow minister at the table.

I want to emphasise that this is still a work in progress. We will revisit it when we are in government. We will introduce amendments which will give us greater security against the erosion of our civil liberties. I might say that, despite the protestations and concerns expressed by Professor Williams, he now believes that on balance this piece of legislation does not provide a detention regime and he supports the legislation with the amendments that have been proposed. That is very important. This is a person who is held in high esteem in the legal community and, indeed, is seen as a spokesperson and a commentator with a great deal of credibility. That he is able to bring himself now to support this legislation with the amendments which have been proposed is, I think, confirmation of the good work which has been done by the Labor Party. *(Time expired)*

Mr DANBY (Melbourne Ports) (1.16 p.m.)—I believe that the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2] achieves the balance between the security of this country and its citizens, and our civil liberties, as previous members have said. I think it is important to step back and do as the member for Brand did: address why we are here and the context in which this legislation is being passed. I do not think there can be a better summary of why we are here than his words at an earlier stage when we were considering this bill late last year. He said:

> Australians have been killed—

in Bali—

> partly because we do not share a particular set of religious convictions—

with the perpetrators. He continued:

> We have been killed partly because we are supporters of the United States, who are defined as one of the enemies. We are to be killed partly because we associate with moderate Muslim regimes which are themselves targets. We are to be killed partly because we supported the independence of East Timor.

As far as I remember it, that was a unanimous view of this House and the other place. The member for Brand continued:

> There are a whole variety of reasons why we are potentially to be killed. We are to be killed in our homes, we are to be killed in our clubs and we are to be killed in our public buildings ... we think that we are threatened. We think our society is threatened. We think we have to protect our society. We think this bill will help us protect our society.

He said that that was the basis on which the opposition approached this bill. Later Mr Beazley added:

> This country needs the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002—

because it—

> will ensure that we have in the coming weeks and months the capacity to allow our intelligence agencies to do the very best they can in securing information from people in the community who

may have a vague understanding, or even a more substantial understanding, of actions intended here or elsewhere that will take the lives of our citizens or the citizens of other countries. The bill is needed. It will not be a satisfactory outcome if we walk away at the conclusion of these proceedings without such an act.

I echo the words of my fellow members of the opposition, and particularly focus on congratulating Senator Faulkner, the member for Barton, the member for Banks and, indeed, the Attorney-General on the sensible conclusions and the agreement that have been reached over these ASIO powers. Many sides have had to compromise; much deep thought has had to be given. But the balance between civil liberties that we treasure so much in Australia and the need to protect Australian citizens after the dreadful events that have been visited on us has been struck, and struck intelligently. As the member for Brand said, both sides are concerned in this debate with an outcome that looks after the Australian people, rather than wedge politics.

What are some of the additional safeguards to our democratic liberties that have passed since the opposition has been pressing the government so hard on this legislation since late last year? Senator Faulkner outlined them in the Senate last night:

Gone from the bill is the power of ASIO to detain and strip search young children. Gone is the denial of legal representation. Gone is the capacity for ASIO to hold someone indefinitely. Gone is the capacity for ASIO to hold someone in secret. Included is high-level judicial supervision.

I know that the Attorney had to compromise on this. That is to the government's credit. Very importantly, as other members have focused on, there is a three-year sunset clause. Many of us can have different views about whether, analytically, in three years time the terrorist situation will be the same. I think, given the commonsense and high-level consideration that all members have brought to this issue, that we will determine that when we come back in three years time. But it is like other important provisions that the opposition, together with the government, has been able to put into this legislation. There is now to be, in addition:

... a review by the Joint Parliamentary Committee on ASIO, ASIS and DSD of the operation, effectiveness and implications of the act after three years; and a requirement for ASIO to provide detailed statistics in its annual report on the number of warrants, questioning times and the prescribed authorities who were used.

This will obviously inform people—in three years time when we come to consideration—whether this legislation should be sunsetted or not. Senator Faulkner said that this:

... is more of a questioning regime than a detention regime ... Labor has successfully insisted persons being questioned by ASIO should have access to legal advice for the duration of questioning. Labor has successfully insisted that young children are not exposed to this regime and that the age limit should be 16 ... It must be remembered that only 16- to 18-year-olds who are suspects—not non-suspects—can be questioned by ASIO.

(Extension of time granted) Labor's bottom line, as Senator Faulkner said, is that Australia's national security should be above party politics. Labor has not played politics with the ASIO bill and is not about to start now. Obviously, we have a number of amendments that were passed in the Senate that Labor will revisit and would like to have included in this bill but, as Senator Faulkner said, he wanted to make it clear that the opposition will not be insisting on these amendments if the government rejects them. He said:

We are urging the government to go the extra yard and address the areas of concern which still remain. Given that we will not be insisting on the amendments, I acknowledge that there is no political necessity for the government to do so.

It is a shame that the extra amendments which would have given some extra civil

liberty aura to this legislation were not passed, but I agree with the member for Banks and the Leader of the Opposition that we will be returning to these amendments and seeking to have them included if we are returned to government at the next election.

Unfortunately, as a consequence of circumstances resulting from the decentralisation of terror through al-Qaeda, the new threat to the physical safety of Australians is more diverse, more diffused in many ways and more ideologically motivated than ever before. Sometimes, it might even be domestic in origin, as recent revelations on the *Sunday* program about Nudul Al Islam reveal. This means that defeating the threat to the physical safety of Australians requires a new set of tools and responses, some of which impinge on the very freedoms that we take for granted. I do not think any of us take this legislation lightly, but we have passed it despite our concerns about the future wellbeing of Australians. We cannot fail to relate this legislation to the tragic events in which 90 of our countrymen were killed just last year. An editorial in the Melbourne *Age*, referring to reflections on Bali by the Director-General of ASIO, said:

> ... Mr Richardson conceded that 'all acts of terrorism represent an intelligence failure'.

This legislation shows a determination in this House by both sides that we cannot allow failures of that kind to happen again. Perhaps this legislation will assist us in preventing it from happening again. The *Age* continued:

> The more important task—for both parties—is to uncover whatever weaknesses may exist in our information-gathering and protection efforts and to correct them.

I believe that this legislation does that with its mixture of concern for the security and civil liberties of Australians. The editorial concluded:

> Mr Richardson told the Senate that intelligence failed to identify Jemaah Islamiah's transition to a terrorist organisation (which took place 'sometime after 1996') until December 2001. This meant that ASIO failed to do 'what might have been able to be done if JI had been identified a year or two earlier as a terrorist threat'. This admission is an important step towards charting an intelligence course for the future. Constructive responses, not blame, are what is needed now.

I believe that the hard work of all members of the parliament in this place and in the Senate—in particular, the work of Senator Faulkner, the member for Banks and the member for Barton, together with the government, represented by the Attorney-General—has arrived at legislation which will, hopefully, prevent threats to the physical safety of Australians.

I believe that Australians understand the necessity for this legislation at this time. They expect their parliamentarians to approach this with a great degree of seriousness. When we reflect on passing this grave legislation, as the member for Lingiari alluded to, we do it with that great degree of seriousness. I saw, on the front page of the Melbourne *Age*, the picture of one of the courageous Australians who had gone to the Bali trial, who had been horribly burnt, standing there saying that he wanted to confront Mr Amrozi and the terrorists who perpetrated those attacks on Australians. I think of him and of all the people who have suffered since—all of the victims, all of the families. This House has done them great credit by passing this legislation, which has the correct balance between civil liberties and security. *(Time expired)*

Mr ORGAN (Cunningham) (1.27 p.m.)—The Australian Greens deplore the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2]. We feel that it is unacceptable, unnecessary and unbalanced. All the amendments should be agreed to, but the bill should be opposed. When I last spoke in the House on

this bill, I saw it as an affront to the Australian legal system and as a fundamental affront to our democracy. Unfortunately, nothing much has changed since March, despite the many amendments put in place by the opposition and parties such as the Greens. We do not agree with the government and opposition that there is the need for such draconian measures and for such an attack on our basic civil liberties, despite the realities of the post September 11 environment.

As my fellow Greens, Senators Kerry Nettle and Bob Brown, have pointed out, the ASIO bill means that people who are innocent and whom ASIO know to be innocent could be detained for seven days at a time. As soon as they are released, a warrant can be reissued and they can be rearrested. Some of them can be questioned without a lawyer being present. This bill applies to people as young as 16. With this bill, we have now seen a reversal of the fundamental onus of proof that is on authorities to prove guilt; those accused now have to prove their innocence, especially if ASIO believes that they have something to hide.

In reality, this is a frightening piece of legislation that passed through the Senate last night, and various speakers have already pointed this out. We have had lawyers oppose it; we have had community activists oppose it. Journalists and unionists oppose it. It is a shame that the ALP has caved in over this bill in the last couple of days. We have just heard the Attorney-General himself say, 'I hope the powers under this bill never have to be exercised.' I would say: why proceed with the bill at all? There is no need for this bill. ASIO security forces already have the necessary powers in place to ensure the security of this nation and of our people. This bill goes beyond the pale.

This morning I received some comments about this bill from SafeCom, a community activist group. They were informing me, as a member of parliament and community activist, that, under this regime, I can now be detained because, for example, I might call one of my friends in an Australian detention centre or living in the Australian community on a temporary protection visa. The person said:

> This can happen you see, because one of the friends you may, or may not have called, may, or may not, have spoken to someone else, who may, or may not, have any connection to an organisation, which may, or may not have links to another organisation that may—or may not be—linked to a terrorist organisation.

That is the craziness of the regime under this bill. A terrorist organisation—or even the Mujahideen, the Iranian opposition movement, which is the example this person has given—can be covered by this bill. The Mujahideen is loudly applauded these days by the United States in support of destabilising the Iranian regime, and it is the same group associated with the recent raids by the Australian Federal Police on 11 Iranian families a few weeks ago. Another local group, the Refugee Action Collective, was also associated with some of these raids. That is a group which has been working amongst the Australian community with regard to refugee and asylum seeker issues, and I have also had links with them myself.

People such as me—politicians, the media and anyone in this community—are now open to this regime. I have to say: what is this country coming to? Fear and loathing are increasing. I think that we are now beyond the 'be alert, not alarmed' regime and are moving further along the line of being terrorised in our own community. I wonder what kind of Australia we as politicians are creating by the passage of this bill. We are being asked to put our faith and trust in ASIO and intelligence agencies under a new legal regime. Frankly, on past performance, I believe this is a dangerous path to take, and I there-

fore—while supporting the amendments—must oppose this bill.

Mr ANDREN (Calare) (1.31 p.m.)—I have been angry, confused, argumentative and frustrated as I have followed the tortuous route of this debate over the past few months. I remain concerned about some aspects of the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 [No. 2], even in its amended form. In a climate of fear that is daily increased by terrorist alert warnings, it would be easy to go with the flow and accept all aspects of this legislation as absolutely vital to our security. I am mindful of concern in my community and wider electorate about the possibility of terrorist attack, warranted or not. It is hard to get a proper perspective on the threat to Australia in the current climate, but I do accept that our unquestioning support for US military policy will certainly make us a greater target than, say, New Zealand, which has sensibly and responsibly, in my mind, adopted an independent foreign policy. But, in tackling suspected terrorism, many of those cherished freedoms we have enjoyed are about to be surrendered. There is absolutely no question about that. From that premise, we have to analyse just what we are confronted with here.

The amended legislation is certainly a long way from the original bill—and thank heavens for the Senate. The amended bill has a lot of safeguards that were not there: it has a citizen's right to see a lawyer immediately after being detained by ASIO; it will now not apply to anyone under 16; and, if a warrant is sought for someone aged 16 to 18, the minister can consent only if he or she believes that it is likely that the person is committing or will commit a terrorist offence. I still have grave reservations about the power vested in the minister of the Crown. According to the bill, persons over 18 cannot be in detention when a new warrant is issued by the issuing authority.

According to my inquiries and the expert advice from the parliamentary research staff, there appears to be no provision for a person to be released before consent is sought from the minister by ASIO, so there could be little or no time between release and reissuing of the warrant. This, I understand, is the rolling detention concern that critics of this bill seem to be saying still exists in this amended form. I hope that the Attorney addresses that. Before a new warrant can be sought, the minister now needs to be convinced that there is materially different information from that known to the Director-General of Security before the director-general sought consent the previous time. However, the research experts in this parliament tell me that the legislation as it stands is still vague in this area. While I accept that the legislation has been significantly amended and given a sunset clause, and that revision processes have been put in place, I reluctantly give support to this legislation. But I certainly support those amendments—(30), (33), (34), (57) and (58)—that the government has indicated it will oppose. Given the numbers in this place, I would assume that the Senate would insist on them.

I support a three-day questioning regime—three times eight hours interrogation. Remember, we are giving up freedoms in this legislation by giving our intelligence agency, not our police, the power to detain and compulsorily question. That must never be forgotten. It must be remembered that the UK allows for the custody and detention of suspects based on reasonable suspicion by a constable, that the US has mandatory detention of suspects and that in Canada detention is possible for up to three days. In the Canadian case, where exigent circumstances exist, a peace officer can arrest any person without warrant and must bring them before a judge

within 24 hours—but the three-day limit applies, as I understand it.

I do not want to suspect sinister intent by unaccountable authority with this legislation, but there are still elements of that. I do not want to see it as a reactionary piece of law that turns our intelligence service into a secret police, but I am aware of great concern in the media about the implications for journalists and the protection of their sources of information. On balance, after examining the legislation in those other Western countries and having been comforted by the assessment of Professor George Williams—for whom I have immense respect—that this bill is acceptable under the circumstances, I reluctantly support this bill with the added protection afforded by these Senate amendments, including those the government has chosen to reject. I would be appalled if the opposition argued for its three times eight hours amendment in this place and then conceded that amendment when this bill is returned to the Senate.

The DEPUTY SPEAKER (Mr Wilkie)—The question is that the amendments be agreed to.

Question agreed to.

Mr WILLIAMS (Tangney—Attorney-General) (1.36 p.m.)—I move:

That Senate amendments Nos. 30, 33, 34, 37, 57 and 58 be disagreed to.

I have already addressed the amendments. I do not propose to say anything further.

The DEPUTY SPEAKER (Mr Wilkie)—The question is that the amendments be disagreed to.

Question agreed to, Mr Organ dissenting.

Mr WILLIAMS (Tangney—Attorney-General) (1.37 p.m.)—I present the reasons for the House disagreeing to Senate amendments Nos. (30), (33), (34), (37), (57) and (58), and I move:

That the reasons be adopted.

Question agreed to.

Mr WILLIAMS (Tangney—Attorney-General) (1.38 p.m.)—I move:

That amendments Nos. 16, 23 and 32 be disagreed to, but that in place thereof Government amendments Nos 1 to 3, circulated to honourable members, be agreed to.

Government amendments—

(1) Schedule 1, item 24, page 10 (lines 19 to 23), omit paragraph (3)(d).

(2) Schedule 1, item 24, page 12 (lines 17 to 21), omit paragraph (c).

(3) Schedule 1, item 24, page 16 (lines 18 to 24), omit paragraphs (4)(a) and (aa), substitute:

(a) a person being detained after the end of the questioning period described in section 34D for the warrant; or

Again, I do not propose to elaborate, having previously addressed the issues. There is one final comment I would make, though: this has been the subject of an intense debate in the media, in the parliament, in parliamentary committees and, no doubt, within party rooms. I think we could easily overlook the fact that in those circumstances there are people who have to do the work that creates the opportunity for the discussions we have had. I would like to record the government's and my own appreciation for the work done by officers of ASIO, officers of the Attorney-General's Department and advisers in my office. I am not allowed to name the ASIO officers, so I will not name anybody else, but the appreciation is real.

The DEPUTY SPEAKER (Mr Wilkie)—The question is that amendments Nos 1 to 3 be agreed to.

Question agreed to.

MIGRATION AMENDMENT (DURATION OF DETENTION) BILL 2003

Second Reading

Debate resumed.

Mr RANDALL (Canning) (1.39 p.m.)—It is my pleasure today to be able to speak on the Migration Amendment (Duration of Detention) Bill 2003. I am quite taken aback by the fact that the Labor Party intend to oppose this bill. If the Labor Party have not learnt anything over the last few years it is that the Australian people support this government in its tough stand on migration issues. Its tough stand on migration issues includes detention for noncitizens, illegal arrivals and people who stay here illegally. It is quite unbelievable, having previously gone to an election on these issues and having had the public debate that we have had in the electorate, that the Australian Labor Party, obviously in conjunction with some of the minor parties, intend to vote this bill down. It sends a signal to the Australian electorate that the Australian Labor Party, no matter what they say about being tough on illegal arrivals, speak weasel words because they do not intend to stick to them.

When they are given the opportunity, as in this case, to clarify the law before the courts about what happens to illegal people being released into the community, the Australian Labor Party—for all the obscure reasons which the opposition spokesman, the member for Lalor, previously outlined—are saying they intend to vote the bill down. It is quite amazing. I can assure you, Mr Deputy Speaker Wilkie, that, with the threat that the opposition spokesman made about informing electorates, I intend to do the same. I will certainly be informing my electorate and other electorates in my particular home state that the Australian Labor Party are again soft on migration issues and soft on citizens who wish to come into this country and abuse their rights to stay here.

This bill is intended to uphold one of the fundamental principles of migration law—that is, that persons who are unlawful noncitizens must be placed in immigration detention until after their status and situations are resolved. This bill will clarify that persons in detention cannot be released on an interlocutory basis until this process is finalised and they are found to be lawfully in Australia or not subject to the Migration Act's detention provisions.

By way of explanation, I say that detention of illegal noncitizens in this country goes to the fundamental integrity of Australia's migration system. It is one of the underpinning facts that make our migration system fill with the integrity that it has. Not only is it now a strong principle in Australian law but it has been adopted by other countries of the world. Particularly, new legislation in America, Britain and Italy, for example, has mirrored Australia's legislation on the detention of illegal noncitizens, because they see that it works. It is very simple. America has had a real problem with people arriving illegally—so has Britain, so has Italy and so have a raft of other European countries. I am informed by our embassies—and I have spoken to them about this—that those countries have copied Australia's legislation because they see it as an important way of stopping the great influx into their countries and the abuse of their migration systems. Surprisingly, it is a Labour government in Britain that has brought this legislation into their House. I suppose that just goes to say that in Britain the Labour Party have a strong leader compared to Australia. That was seen during the Iraq war—Britain had a strong Labour leader; Australia did not—and that is the sort of leadership that is being shown in that country now.

This bill is necessary because it upholds the mandatory detention regime. A recent trend has emerged in the Federal Court for orders to be granted to release persons from detention on an interlocutory basis pending the resolution of substantive issues in cases. There are grave character concerns about some of these persons, and they may pose a threat to the public. The bill is required to prevent the mandatory detention regime in the Migration Act from being undermined and totally white-anted by the Federal Court and, in particular, to prevent the potential release into the community of persons of character concern.

We only have to look at the activism of the Federal Court in recent years. One particular judge stands out, and that is Justice Tony North. We remember him from the days of the wharf dispute and his involvement in the *Tampa* crisis. Melbourne lawyer Eric Vidalis also appears to support the activism of the Federal Court, and this is of grave concern to this government.

The SPEAKER—Order! The member for Canning would be aware of the standing orders that indicate that reflections on the judiciary are out of order.

Mr RANDALL—Can I say that reported in the media—

The SPEAKER—You can say whatever the standing orders permit, not whatever you wish.

Mr RANDALL—Reported in the media, Mr Speaker, and I will read it to you in a moment, is the fact that some judges of the Federal Court have seen fit to use the interlocutory measures and others have not. It is a written fact in the media; it is not a reflection.

The SPEAKER—Let me point out to the member for Canning that I am dictated by the standing orders. The standing orders do not apply to the media; they apply to debate in this chamber. The member for Canning has been quite within his rights to discuss the Migration Amendment (Duration of Detention) Bill 2003, but any reflection on the judiciary should be deemed out of order.

Mr RANDALL—The fact that there is a tone of activism in the courts is something that is widely reported, and that is the reason this bill is before this House. It is before this House because of the creative interpretations in the courts. The courts have invited this parliament to clarify the legislation because, at the moment, they deem it to be not totally clear. This is what this bill does: it clarifies in legislation what the courts of Australia can do. I do not see how you can have any problem with that.

The SPEAKER—The member for Canning must in no way reflect on the chair. All the chair has done is to indicate to the member for Canning that reflection on the judiciary is out of order. The member for Canning has the call, and he will continue within the standing orders.

Mr RANDALL—I have thanked you, Mr Speaker, and I have pointed out to you the reasons for the bill. I very much appreciate it. Since the Federal Court commenced making orders, we have seen more applications for interlocutory release orders. There is a trend which, if it continues, will severely undermine the legislative program of this mandatory detention regime. As a result, this bill is necessary. It is interesting that the courts have challenged the government to clarify the law of detention in relation to visa cancellations in relation to character and of criminal deportees in detention.

There are people being held in detention because they are not lawful citizens of this country and about whom there are grave character concerns. I will give the dates and backgrounds of some of the convictions of people whose release into the community we

are concerned about. On 19 December 2002, a person subject to a deportation order on the basis of convictions for sexual assault was released. If this was happening to Australian citizens, we would be asking, 'What on earth is the court doing in allowing people to be released into the community about whom there are these concerns?' Although the courts still have the right to determine their legitimacy as citizens and to consider them for visas, we are saying that, as an interim measure, or an interlocutory measure, the courts need to be given some direction that they cannot let into the community people of dubious character who have some sort of form. On 6 March 2003, a person with a long criminal history—over 40 offences, including convictions for the manufacture and sale of heroin, theft and a breach of bail on armed robbery charges—was released by the courts into the community as an interim measure until his status was finally determined. This bill is about giving direction to the courts on the sorts of people we do not want released into the community.

There have been several court cases, and the opposition spokesman alluded to them earlier today. The code name for the first one was VFAD. There was the Al Masri case, where a Palestinian gentleman said he could not go back to his country of origin for all the reasons that they would not have him back but, strangely enough, he is now back in the Middle East. For all the posturing—'You can't send me back to my own country because I'll die or be killed'—the fact of the matter is that this person is now back there. It is interesting.

I am a member of the migration committee of this parliament and I have visited the detention centre in Port Hedland. There are a number of people there who the staff refer to as 'Afpaks'. I asked them what they meant by 'Afpaks' and they said, 'We don't know, because they claim to be Afghans and the evidence is that they are Pakistanis.' Because they have destroyed all their papers, these people's status is unknown, and it takes some time to determine where they belong. This legislation is certainly necessary due to some of the interpretations by the judiciary.

Labor's duplicitous decision on this will allow people to see them for what they are. Before the last election, until the border protection measures came into this parliament, they kept on saying, 'We are one with you on the issue of detention and illegal arrivals.' However, every time they are tested, they back away. I find very interesting the case of, for example, the opposition spokesman on this matter, who says, 'We have to keep them in detention, but in the meantime we have to release members of their family into the community.' She has challenged me to say whether in fact the children should be in detention. She knows, and the Minister for Immigration and Multicultural and Indigenous Affairs, Mr Ruddock, has made it very clear, that if state regimes have concerns about children in detention they should release them into community care. I do not know what the problem is. There does not need to be any child in detention in this country, because the minister has given directions to state regimes that they can be released into community care.

Children do not need to be in detention, for one very simple reason: their parents could go home tomorrow. There is nobody in this country in detention, particularly boat arrivals, whose cases have not been heard. They are all there now awaiting the results of their appeals. We know the raft of appeals they go through. They go through the Migration Review Tribunal, the Refugee Review Tribunal, the lower courts, the federal courts and all the way to the High Court. They stay there through all these cascading processes of the courts to endeavour to get a result that suits them. In the meantime, while they do

this, they keep their families in detention because that is the law of Australia.

This bill was brought into this House in 1992 and re-amended in 1994 by the Labor Party. It was the Labor Party bill that asked for mandatory detention of illegal noncitizens in this country. Those that are being processed and reviewed could leave this country tomorrow, and we know that the minister has even given certain helpful inducements to these people by offering them several thousand dollars to return to their countries of origin.

However, where there are people who will not be accepted back by their country, this must be of grave concern. Why would a country not want some of these people back? Obviously because many of them, as I have indicated previously, have criminal records, which range from drug dealing to rape to murder, and they do not want those people back in the country. Can I say that we do not want them either. If they were people of that sort of character, why would we want them as new citizens of Australia? I say to the Labor Party, 'Get real on this,' because the community does not want our country to be a dumping ground for people who are not even welcome in their own country. I make it very clear that Australia has a program to bring skilled migrants here rather than to permit family reunions et cetera.

Ultimately, the opposition spokesman has said that she is going to propose amendments to this bill with respect to the detention of children et cetera. I say to the opposition spokesman—and I will be letting my electorate know, as I should—that there need be no child in detention. We have made it very clear, as I have said previously, that arrangements could be made if there were any concerns about them being there with their families. The Labor Party is concerned about fathers and role models, but these fathers and role models have been found to be illegal arrivals in this country, whether through boat arrival or overstay. If that has been determined, they should really return to their country of origin. That has happened in many cases, as I have said, with people from Sri Lanka, Afghanistan and in some cases Pakistan. So, it can be done and it should be done. If they did have the interests and the welfare of their children at heart, they would go home and form a family unit in their country, where they are legal citizens—because they are not citizens of Australia.

The government has taken its responsibility for alternative detention arrangements for women and children very seriously, and it is providing flexible and workable alternative detention models for women, children and unaccompanied minors in detention. In August 2001, the Department of Immigration and Multicultural and Indigenous Affairs conducted in Woomera a trial of residential housing projects for women and children. The minister has made it clear to me that every effort must be made to get all the women and children who come within this ambit into alternative accommodation.

The instruction for unaccompanied minors requires that in exceptional circumstances unaccompanied minors for whom the minister is a guardian under the Immigration Act will be moved quickly to alternative detention or released on bridging visas if possible. Since 3 December 2002, 26 unaccompanied minors have been held in detention. The minister has been recognised as the guardian under the IGOC Act for 10 of the 26 who have been in detention between 3 December and 13 June. Seven have been in alternative detention arrangements in the community for the entire period, 11 have turned 18 or have had their age reassessed to be over 18 after initial acceptance as a minor. One has been granted a bridging visa, four have been removed from Australia and only three remain in detention centres. Only one of the three

who remain in detention facilities has the minister as a guardian under the IGOC Act and is therefore directly within the ambit of this instruction.

On this issue the Labor Party is found wanting again. The Australian people want our migration system to have integrity. They want detention to be part of the migration system because it is something that they see as maintaining Australia's strong commitment to migration. Our proper migration system should not be circumvented by activism in the courts, and this bill addresses the inaccuracies and confusion that occur in the courts. I commend the bill to the House.

The SPEAKER—Order! It being 2 p.m., the debate is interrupted in accordance with standing order 101A. The debate may be resumed at a later hour.

QUESTIONS WITHOUT NOTICE

Medicare: Bulk-Billing

Ms MACKLIN (2.00 p.m.)—My question is to the Prime Minister. Isn't it the case that in April 2003 a confidential government directive was issued which confirmed that maintaining bulk-billing was no longer an objective of the government and ordered that government documents should, in future, no longer contain any reference to the term 'bulk-billing'? That directive says:

> We have moved away from discussion of 'bulk-billing'—

and—

> Words not to be included in the lexicon include ... 'bulk-billing'.

The SPEAKER—The member for Jagajaga will come to her question.

Ms MACKLIN—Prime Minister, isn't it the case that the government is so committed to getting rid of bulk-billing for Australian families that it wants to strike the term 'bulk-billing' out of its vocabulary?

Mr HOWARD—I am not aware of any such directive. But let me take the opportunity of reminding the member for Jagajaga of the elements of Medicare as expounded by Dr Blewett, the health minister who was responsible for Medicare's introduction. He never at any stage said that guaranteed bulk-billing was part of Medicare.

Trade: Free Trade Agreement with United States

Dr SOUTHCOTT (2.01 p.m.)—My question is addressed to the Prime Minister. Would the Prime Minister inform the House how a free trade agreement with the United States would create jobs and economic growth in Australia? What has been the level of support from the community and the business sector?

Mr HOWARD—I thank the member for Boothby for his question and take the opportunity of reminding the House that, when I met President Bush in the United States last month, we both agreed to conclude the negotiation towards a free trade agreement between Australia and the United States by the end of this year. That is a very ambitious timetable but it reflects the very strong commitment of both the Australian government and the Bush administration to concluding such an agreement. A high-quality free trade agreement between Australia and the world's largest and strongest economy will be of unqualified benefit to this country in the years ahead.

I was reminded of just how valuable a free trade agreement would be when I read yesterday a paper prepared by Stephen Roach, the chief economist of the New York based bank Morgan Stanley. He made the point that since 1995 the world has had only one real engine of economic growth, and that has been the United States. He pointed out that, over the seven-year period ending in 2001, the US economy accounted for fully 63 per

cent of the cumulative increase in world GDP while over the same period of time the European Union—a region of comparable size to the United States—accounted for only eight per cent of the increase in world GDP. So over that period of time 63 per cent of the growth in world GDP was accounted for by the United States while Europe, by contrast, accounted for only eight per cent but is of comparable size.

This is the market—this is the opportunity—that the federal Labor Party would apparently deny Australia. It is the policy of the federal Labor Party, as articulated by the member for Rankin, not to sign a free trade agreement with the United States. I cannot think of anything more calculated to deny this country an opportunity of being part of the fastest growing economic entity in the world—the one that, more rather than less, will bulk large in the future of this country.

What the member for Rankin is saying is in stark contrast to what some successful Labor people in Australia are saying. For example, the Premier of New South Wales has said, 'It is in Australia's interest to link ourselves with the world's most dynamic and creative economy.' The Premier of South Australia has said, 'An FTA would give us access to 280 million customers.' The Premier of Victoria recognises potential benefits for the Victorian economy through increased access to markets and improved investment flows. And the Premier of Queensland has said, 'An FTA could be the most momentous boost for our primary industries in 100 years.'

Those are the words of successful Labor leaders. By contrast, those who represent the Australian Labor Party in this place are so ignorant of, and indifferent to, the opportunities for the Australian economy that they set their faces against this opportunity. The government will continue to negotiate to achieve a free trade agreement. If we can achieve it on proper terms, it will do more than any other single act to underwrite the economic future and economic security of this nation well into the 21st century.

Medicare: Bulk-Billing

Ms MACKLIN (2.05 p.m.)—My question is again to the Prime Minister. Didn't the government's confidential April 2003 directive which confirmed that maintaining bulk-billing was no longer an objective of the government and ordered that the term 'bulk-billing' be deleted from the government's vocabulary include the instruction:

> Please review all our Question Time Briefs for these offending words ... monitor this strictly and ensure nothing slips through ...

Why is the government so offended by bulk-billing that it has ordered that the term 'bulk-billing' be removed from its vocabulary? Prime Minister, isn't it the case that the government wants to strike 'bulk-billing' from its vocabulary because it wants to put an end to bulk-billing for Australian families?

Mr HOWARD—Can I say to the member for Jagajaga: self-evidently, the use of the words 'bulk-billing' is not offensive to the government, because those words were used in the new policy A Fairer Medicare, which was released after the date of that alleged instruction.

Immigration: Visa Approvals

Mr WAKELIN (2.07 p.m.)—My question is addressed to the Minister for Immigration and Multicultural and Indigenous Affairs. Has the minister any further information on any representations made to him following a lunch at Brighton-le-Sands?

Mr RUDDOCK—After this issue was raised yesterday, I said I would follow it up. As I advised the House yesterday, my 60th birthday was in March this year.

Mr Swan—We can't hear you.

Mr RUDDOCK—You are obviously not listening carefully, are you?

An opposition member—He's not speaking up.

The SPEAKER—Order! I have no doubt it would be facilitated if members were silent. I will listen for the minister. If I cannot hear him, I will instruct the radio monitors to do something about it.

Mr RUDDOCK—I did attend a function at the Rimal Restaurant at Brighton-le-Sands on 14 April 2003. It was arranged as a surprise but belated birthday celebration—as I said yesterday, not by Mr Kisrwani. In attendance, as I recall, there were approximately 100 people: a former premier, three bishops, community leaders, a consul-general and a large number, I believe, of both Liberal and Labor supporters. The organisers of the function made it clear that there were no immigration issues to be raised. Again, as I advised the House yesterday, I do not recall any immigration cases being raised with me at the function. My office has confirmed that no matters were brought to it following the function. As with the other matters that the opposition have raised over the last three weeks, their assertions have been, sadly, astray.

Further, I did not instruct any member of my staff to attend a follow-up meeting, nor was there any such meeting involving my staff a week later in the meeting hall of the Lebanese Christian Community in Punchbowl. I know of no body known as the Lebanese Christian Community. I do know that the Australian Lebanese Christian Federation is located at Punchbowl. This federation is a community settlement service scheme funded body, funded by the department to offer settlement services to the Arabic-speaking community.

For completeness, I should advise the House that I do have representations from the Australian Lebanese Christian Federation, and from time to time they are in touch with my office—as are representatives of most other like bodies. On one occasion, departmental liaison officers from my office have visited the premises of the federation, and that was on 18 February 2003—two months before the birthday function. In discussions with federation representatives on that day, some eight immigration matters were raised with departmental officers. Four related to my intervention powers, in one I have declined to intervene, and three are currently under consideration. None has been acceded to by me—not, as alleged, 25. The other matters were various immigration cases being processed routinely by my department against standard legislative criteria.

While it is clear that that meeting had nothing to do with the function in April, I think it was important to reiterate what I advised the House yesterday. It would not be unusual for me to ask my office, in relation to matters that have been raised with me, to follow up those matters with those who make inquiries. It would not be unusual or unexpected. I think anybody dealing with me or my office would expect that inquiries would be properly dealt with by departmental liaison officers in the office; to do otherwise would be an abrogation of my responsibilities.

Telstra

Mr CREAN (2.11 p.m.)—My question is to the Deputy Prime Minister, the Minister for Transport and Regional Services and Leader of the National Party. Can the Deputy Prime Minister confirm that the Leader of the National Party in Queensland, Mr Lawrence Springborg, has adopted Labor's policy not to sell the rest of Telstra? Will the Deputy Prime Minister now join his Queensland National Party colleague in adopting Labor's policy of saving Telstra?

Mr ANDERSON—The Leader of the Opposition in Queensland would in no way adopt the Labor Party's policy on Telstra, which is to completely and absolutely ignore bush services. Based on their historical performance, they would be far more interested in closing down things like mobile services than they ever would be in ensuring that country people had a fair go.

Telecommunications: Services to Regional Australia

Mr NEVILLE (2.12 p.m.)—My question is addressed to the Deputy Prime Minister and Minister for Transport and Regional Services. Would the Deputy Prime Minister advise the House of measures the government is implementing to ensure that telecommunications services to regional Australia are future-proofed so they will continue to be improved? Is the Deputy Prime Minister aware of any alternative policies?

Mr ANDERSON—I thank the honourable member for Hinkler for his question. As his constituents and others around rural Australia would know, no-one has fought harder, and fights harder, than he does for the government's objective of ensuring that country people have access to the telecommunications services that they need—and that they have them in the future, because that is what we are determined to do. Securing the future of regional telecommunications comes in three parts. First, we will spend $140 million—which is quite a bit of money—on a national broadband strategy both to provide affordable access to broadband and stimulate the take-up of broadband. Second, we will impose a licence condition on Telstra that it maintains a local presence in regional Australia, and it will lay down parameters that Telstra has to fulfil to meet that requirement—tough conditions. This will be in addition to the licence conditions and other requirements already imposed by the government on Telstra and on other suppliers.

Third, the adequacy of telecommunications services will be under continuing review. The Besley and Estens inquiries are not the end of the government's surveillance of regional telecommunications; they are the beginning. We will include in legislation a requirement for ongoing, regular and independent reviews of regional telecommunications, and ensure that important new services are being delivered equitably in these areas. These reviews will not only have to be tabled in the parliament; this government and future governments—unless they are going to say they do not believe in future-proofing and walk away from it, and go back to where they were before and never move to insist on an improvement in bush services and unwind our commitments—will be obliged to respond publicly to the findings of those reviews.

Under this government's plan, Telstra cannot walk away from regional Australia, because if it tried to it would lose its licence to operate in the cities as well. That is what would happen. Under the government's plan, no government will be able to simply forget about regional telecommunications—as Labor did for so long—because, if they try, their abrogation will be publicly exposed and they will be obliged to address it. Mr Speaker, that is how you secure the future of regional telecommunications. First you close the gap in services, then you legislate and regulate so the gaps cannot reopen and finally, and very importantly, you foster competition to drive down the price and drive up service variety.

It is interesting to note that thousands of schoolchildren in remote New South Wales and the Northern Territory are doing their schooling at home through School of the Air, and they are getting used to their new computerised real-time classroom. They have traded in their 50-year-old two-way radios for the latest two-way satellite technology. In

western New South Wales—in Narromine, Bourke, Cobar, Gulgong, Lightning Ridge, Nyngan, Trangie and Warren—people are getting used to their new GSM mobile phone services. But do you know what, Mr Speaker? Telstra did not provide them; Optus did—the competition which is out there because there is a bob to be made, an opportunity to be exploited. That produces good outcomes in regional Australia—not because the government forced them but because there was an opportunity there to be met. That is a very important point.

I have been asked whether there are any alternative policies. I can tell you that, when it comes to telecommunications standards, there certainly are not any that would encourage rural people to vote for Labor. All we hear is the repetition of a mantra that is never explained. They never explain how government ownership of Telstra will guarantee services, because they know the claim cannot be justified. It does not stand up. The fact is that governments have the power to ensure service outcomes. I hear from the opposition the idea that the poor little federal government would be frightened by a telco. What do they think the federal government is? They know full well—and the opposition spokesman for telecommunications acknowledged this on radio in Melbourne the other day; you acknowledged it, old chap—that the government has the power. You know it has the power. Let us have some integrity in this debate, and let us have the debate.

Mr Tanner—Mr Speaker, I rise on a point of order. I request that you draw the minister's attention to the continual use of the word 'you' in his—

Honourable members interjecting—

The SPEAKER—The member for Melbourne has raised a point of order and has not as yet given me the opportunity to respond to it or the courtesy of listening to my response. I point out to the member for Melbourne, who raised a point of order but apparently did not want to hear a response to it, that the use of the word 'you' is outside the standing orders where the statement is directed individually to someone in the House. I was listening to what the minister said. On every occasion when he said 'you' it was not something about which the Speaker could have intervened, because it was not directed individually to someone else in the House. I am happy to elaborate on this with the member for Melbourne later.

Communications: Media Ownership

Mr MURPHY (2.18 p.m.)—My question is to the Prime Minister. I refer the Prime Minister to the government's plan to narrow the diversity of media ownership and opinion in Australia. Is the Prime Minister aware of the comments of the member for Calare in relation to his time at Channel Nine? He said:

> ... Kerry Packer exerted a direct and at times hands-on influence on the content of news bulletins, particularly at politically sensitive times ...

He also said that Kerry Packer:

> ... exercised a direct influence over editorial policy.

Prime Minister, how can newsrooms be separated from their owners, given the experience of the member for Calare and the uniform editorial position taken by the Murdoch group in relation to the war in Iraq?

Mrs Bronwyn Bishop—Mr Speaker, I rise on a point of order. The standing orders clearly set out that in a question you may not use material which constitutes argument and debate. The information which was inserted into that question is certainly by way of conjecture, argument and debate, and it should be ruled out of order.

The SPEAKER—The member for Lowe's question is on media ownership. I am

listening closely to the content. The member for Mackellar is right that there was a level of argument in the question, as there often is. I have allowed him to continue, but I ask him to come to the question.

Mr MURPHY—Prime Minister, how can newsrooms be separated from their owners, given the experience of the member for Calare and the uniform editorial position taken by the Murdoch group in relation to the war in Iraq? Prime Minister, will the government now abandon its plan to hand more power to the big media groups, narrowing the base of democratic opinion and debate in Australia?

Mrs Bronwyn Bishop—On the point of order—

Mr MURPHY—This is censorship again—

Honourable members interjecting—

The SPEAKER—The House will come to order! The member for Lowe is well aware of the fact that his actions in the latter part of the question were grossly disorderly. The member for Mackellar was seeking the call.

Mrs Bronwyn Bishop—Mr Speaker, I was going to make the point that in fact the member asking the question was flouting your ruling and introducing the material which you had already said was disorderly.

The SPEAKER—I think the matter has been satisfactorily dealt with, but I will hear the member for Werriwa.

Mr Latham—Mr Speaker, I rise on a point of order. I draw your attention to your ruling on 12 December last year, when you said:

> I believe that every member's word should be taken as their bond.

It is hardly conjecture from the member for Calare. We should take his word on the operations—

The SPEAKER—The member for Werriwa will resume his seat. This question time is not being assisted. I have allowed the question to stand. I merely required the member for Lowe, as he understood, to take action on what was an unparliamentary statement and act at the end of his question.

Mr HOWARD—To start with, in reply to the member for Lowe I reject completely the depiction of the government's media legislation contained in the first part of the question. As to the second part of the question, I am not aware of the remarks of the member for Calare.

Thirdly, I have, since they were introduced, regarded the present media laws as ill conceived. They were designed largely to smash the power of the then Melbourne Herald group because it was seen as unsympathetic to the former government. It was also directed to reducing a lot of the power of the then Macquarie network and Fairfax group, which was far more extensive in the 1980s than it is now. The legislation was conceived on the basis of the blind hostility of the then Treasurer to the attitude of newspapers. It ill becomes somebody who comes from the same kidney of the Australian Labor Party as that particular individual to be accusing the government of some kind of attitude towards media proprietors.

Mr Murphy—Mr Speaker, in view of the Prime Minister's response, I seek leave to table the member for Calare's speech on the second reading on the Broadcasting Services Amendment (Media Ownership) Bill 2002 on 26 September last year, because it is here.

The SPEAKER—Order! The member for Lowe knows perfectly well that he can only raise points of order. He has sought to table a document and I will facilitate that. But any other comment would be out of order, as he must be well aware. My advice to the member for Lowe would be to quit while he is in

front. The member for Lowe has sought to table a speech. It is an unusual package, but, since it is already available, I will ask.

Leave not granted.

Taxation: Policy

Mr LINDSAY (2.25 p.m.)—My question is addressed to the Treasurer. Would the Treasurer inform the House of the government's approach to keeping taxes low? Treasurer, are you aware of alternative views on levels of taxation?

Mr COSTELLO—I thank the honourable member for his question. I can tell him, as the government announced in its budget, that—

Ms King interjecting—

The SPEAKER—I warn the member for Ballarat!

Mr COSTELLO—after funding our commitments in Iraq, after funding investment in higher education and in health, after making assistance available to those who are affected by drought, the government is able to, and will from Tuesday of next week, reduce income tax for every Australian income tax payer.

As we have watched the states bring down their budgets since then, we have seen eight state Labor governments increase taxes. Between them, we have seen a new levy on electricity bills in Queensland, a new levy on water bills in South Australia and a new levy on insurance in Western Australia. In Victoria, we saw 300 fees and taxes increased, and tolls on the Scoresby Freeway. We have watched the federal Labor Party sit silently through all of this, turn their backs and try to pretend they do not even know it is happening.

Have we heard the member for Hotham on the subject of tolls on the Scoresby Freeway? If he ever goes out to the electorate of Hotham, he will find that nearby is a road reserved to go from Ringwood down to Frankston. During the last election, he launched Labor's policy for a freeway. Now the Bracks government has turned it into a tollway. Have we heard a whimper or a complaint?

We have come to the last day of this budget session. I could have sworn, when the Labor Party was putting its rhetoric out, that somehow it was going to stand for lower taxation; I could have sworn that two months ago. In fact, we even had statements to that effect. I wondered, after the eight state Labor governments had increased taxes, what the commitment of federal Labor was to lower taxes. I decided I would go back to the Australian candidate study 2001, which is a confidential questionnaire of all of the candidates that took part in the 2001 election. They were asked a question, C3—this is on the public record—

Mr Tanner—I thought you said it was confidential.

Mr COSTELLO—It is confidential. It aggregates the outcome. It does not actually have the names. When candidates were asked whether they supported, mildly or strongly, reducing taxes, among the Liberal Party and National Party 65 per cent said they were mildly or strongly in favour of reducing taxes.

Mr Latham—Then why didn't you listen to them?

Mr COSTELLO—Right on cue, the member for Werriwa comes in. When the Australian Labor Party candidates were asked whether they were mildly or strongly in favour of reducing taxes, do you know the percentage that were in favour? Three per cent. Three per cent of the Labor candidates in 2001 were mildly or strongly in favour of reducing taxes.

We have done an analysis. Sitting on the other side of the House are 64 Labor mem-

bers, three per cent of whom are in favour of lower taxes, which means there are two Labor members sitting opposite who are in favour of lower taxes.

Government members interjecting—

Mr COSTELLO—They may have three roosters, but two members are in favour of lower taxes. I am going to start a competition to try and identify the dirty secret of those two members. Which of you there supports lower taxes? Two. No wonder the Labor Party has gone quiet on lower taxes. The same question had something like 17 per cent of Labor members mildly in support of spending more and 68 per cent strongly supporting bigger government spending—a return rate of 85 per cent. So do not listen to what they say; look at what they do. Labor is, and always has been, the party of higher tax, and we conclude this session by outing the fact that 97 per cent of those sitting on the other side would like government taxes to go higher, not lower.

Immigration: Visa Approvals

Mr LAURIE FERGUSON (2.32 p.m.)—My question is directed to the Minister for Immigration and Multicultural and Indigenous Affairs. Is it not the case that in the last three weeks the minister has been able to conduct an analysis of the number of representations, from different sides of politics, made on behalf of East Timorese, including correcting his statement within 24 hours; the number of first-time requests and repeat requests he has received under various sections of the Migration Act; interventions he has made on groups on the basis of country of origin, such as Fijians; and the 62 representations, including 25 that he agreed to consider intervening on, that I have made? Given this track record and his proven ability to check the record, why will the minister not inform Australians about how many immigration matters Mr Karim Kisrwani has made representations to the minister about—

Mr Kelvin Thomson interjecting—

The SPEAKER—I have already demanded silence. It will be respected by the member for Wills.

Mrs Bronwyn Bishop—Mr Speaker, I rise on a point of order. Standing order 146 says:

A question fully answered cannot be renewed.

You have on many occasions, as have your predecessors, ruled that you may not tell a minister how he or she may answer a question and whichever way that minister chooses to answer a question is a full answer. Mr Speaker, I put it to you that this question has been put to the minister again and again, and it is clearly in breach of standing order 146, which says the minister has fully answered the question in the way that he has chosen.

Mr Latham—On the point of order, Mr Speaker: I have two points. The first is that the member for Reid has not finished his question, and it is obviously impossible to assess the matters raised by the member for Mackellar—

Mr Cameron Thompson interjecting—

The SPEAKER—The member for Blair is warned!

Mr Latham—My second point is that, in the questions referred to by the member for Mackellar, no mention was made of the representations on behalf of the East Timorese; the number of first-time requests and repeat requests under various sections of the Migration Act; interventions on the basis of country of origin, such as Fiji; and the 62 representations, including 25 where the minister intervened, made by the member for Reid. This is a totally different question from the ones referred to by the member for Mackellar.

Mr Bevis interjecting—

The SPEAKER—The member for Brisbane, consistent with the member for Blair, is warned!

Mrs Bronwyn Bishop—On the point of order, Mr Speaker: I did not rise to raise the point of order on any of the matters that were raised by the member opposite. I chose to invoke the standing order and brought it to your attention when again the question relating to the particular individual and the number of visas purporting to relate to his intervention was raised. That is the question that has been raised again and again in this House, not the ones that were raised in the point of order by the member opposite.

The SPEAKER—There are valid points of order on both sides of the House. The member for Mackellar is right to observe that the questions about Mr Kisrwani have been extensively canvassed. The member for Werriwa is also right to say that other points of the member for Reid's question had not been directly responded to. The member for Reid had not had an opportunity to finish his question, and it would be improper for me to rule it out of order until he has done so.

Mr LAURIE FERGUSON—I will read that last paragraph again for the minister. Given this track record and proven ability to check the record, why will the minister not inform Australians about how many immigration matters Mr Karim Kisrwani has made representations to the minister and his office about and in what percentage of those cases the minister has granted a visa? If cost is a consideration, does this indicate a high level of intervention requests?

Mrs Bronwyn Bishop—Mr Speaker, I rise on a point of order. Having heard the completion of the question, I simply say to you again that standing order 146 says that that last part of the question has in fact been asked again and again—

Dr Emerson interjecting—

The SPEAKER—The member for Rankin is warned!

Mrs Bronwyn Bishop—The minister has indeed answered it fully. As you have ruled before, you may not tell the minister how he may answer it, but he has clearly answered it before.

The SPEAKER—I invite the member for Reid to resume his seat. I invite the member for Fisher to resume his seat. I recognise points of order if there is still a matter to raise but, as the occupier of the chair, I believe the question can stand because there are parts of the question that have not previously been canvassed. I will allow it to stand for that reason. If the member for Fisher or the member for Reid has a point of order, I will of course hear him.

Mr Slipper—Mr Speaker, I rise on a point of order. My point of order relates to standing order 85: irrelevance or tedious repetition. The member for Reid is seriously and serially guilty of that and I ask that you rule his question out of order on the basis of standing order 85.

The SPEAKER—Neither the clerk nor I can concede that that is a valid point of order. The question stands.

Mr RUDDOCK—I made it very clear yesterday that, in relation to the information I have provided to the House before about representations made to me, it was indicative and not exhaustive. In other words, I do not know, not having searched every file of the 27,000 where representations have been made, that the member for Reid has not been involved in it.

Mr Crean interjecting—

Mr RUDDOCK—No, it was indicative. We might be able to give indicative information but, if you ask me a question which asks precisely for the number of occasions on

which Mr Kisrwani has made representations to me or my office, it will require an examination of 27,000 files to be able to provide that information. What I said was very clear. I am not prepared to authorise an examination of 27,000 files in order to provide answers to what is clearly a fishing expedition on the part of the opposition.

Political Parties: Fundraising

Mr DUTTON (2.39 p.m.)—My question is addressed to the Minister representing the Special Minister of State. Is the minister aware of continuing allegations, including new allegations yesterday afternoon and today, by the disgraced member for Reid of improper political donations—

The SPEAKER—The member for Dickson will withdraw that insinuation and restate his question.

Mr DUTTON—I withdraw that. My question is to the Minister representing the Special Minister of State. Is the Minister aware of continuing allegations, including new allegations yesterday afternoon and today, by the member for Reid of improper political donations by Mr Karim Kisrwani? What is the government's response to these allegations? Does the Minister have any additional information regarding this matter?

Mr ABBOTT—I am aware of continuing allegations against Mr Karim Kisrwani. Mr Kisrwani was a long-time friend of the member for Reid and a long-term donor to the member for Reid's conference. Yesterday I quoted a letter from the member for Reid to Mr Kisrwani acknowledging a $300 donation in 2001. Last night the member for Reid admitted a similar donation in 1999. I have here a letter on parliamentary letterhead of 25 September 1998. It says:

> Dear Karim, I write to thank you very much for your very generous donation of $250 to my campaign.

The letter goes on:

> Your support and close association with my office is very valuable to me.

Mr Kisrwani has also been conscripted by the member for Reid in the member for Reid's branch stacking activities. It turned out that Mr El Dirani was not just a single branch stacker. He was part of a group of 20 branch stackers brought along to a meeting to help David Borger.

Mr Latham—Mr Speaker, I rise on a point of order. This is repetition of a false allegation made against the member for Reid, which the member for Reid corrected on the parliamentary record in his personal explanation and in another speech yesterday. I refer you to your ruling on 12 December last year when you said:

> ... that every member's word should be taken as their bond. I have never had reason to regret that comment. I do not think that matters of misrepresentation should continue ...

You were right then, and I ask you to call the minister to order and prevent him from continuing with these misrepresentations.

The SPEAKER—I heard the minister's comments. As I commented to the member for Werriwa yesterday, the chair is in this difficult position of in no way restricting the opportunity for free speech and at the same time expecting members only to comment on things that they believe can be totally accounted for. The minister has the call. I am listening closely to his reply.

Mr ABBOTT—A question was put to Mr El Dirani by the *Age* newspaper. He was asked if it was Mr Kisrwani, Mr Ferguson and Mr Borger who paid the memberships. Mr El Dirani said, 'One of them.'

Mr Laurie Ferguson—He had a brain haemorrhage.

Mr ABBOTT—And now the member for Reid is trying to smear Mr El Dirani by suggesting that in some way what he said was tainted. Let us look at the quality of the

statements made by the member for Reid. The member for Reid told the parliament, in a personal explanation the day before yesterday: Mr El Dirani 'resides in the Prime Minister's electorate and not in the Parramatta electorate'. That is correct at the moment but in 1999, when he joined the ALP, Mr El Dirani was enrolled in Parramatta. He was on the electoral roll in Parramatta. Referring to Mr El Dirani, the member for Reid said in his personal explanation:

> He continues to hold head office membership, entitling him to no voting rights whatsoever in ALP preselections.

I have here a copy of Mr El Dirani's membership application, stamped by the head office of the Australian Labor Party in Sussex Street, stating that Mr El Dirani is in the Parramatta SEC. In fact, contrary to the statement to this parliament by the member for Reid, I believe that Mr El Dirani is in the Oatlands branch in the Parramatta area. Further, the member for Reid said to this parliament:

> The reality is that this person has paid membership fees from his credit card for a number of years.

I have this membership application and there is no record of any credit card payment.

Mr Latham—Mr Speaker, in your earlier ruling you said that a minister making claims similar to those of the minister for workplace relations needs to be able to verify the claims that he is making. He has now said there is no record of a credit card payment. Obviously the record is held at the Australian Labor Party head office.

The SPEAKER—I have been listening closely to the minister; the minister is in order.

Mr ABBOTT—The point is: who paid Mr El Dirani's membership fees? Who paid his joining fees? I have the application to join and there is no credit card payment. The question is: just who did pay for this particular stacker to join the Australian Labor Party? I table the document so that the member for Reid can study it more closely. There is an issue here for the Leader of the Opposition. What we have seen over the last few days is that the member for Reid—this parliamentary PC clod; the Inspector Clouseau of forensic analysis—has completely derailed the Labor Party's attack on the minister for immigration, and he has burnt off the Lebanese community.

Mr Latham—Mr Speaker, I rise on a point of order under standing order 145. The minister is going well beyond the bounds of the question that was asked. There was no mention in the question about the Leader of the Opposition which invites these comments.

The SPEAKER—Standing order 145 refers to relevance. The question, I have to admit, from what I jotted down, was frightfully broad.

Mr ABBOTT—Not only that, the member for Reid has ended up drawing attention yet again to Labor branch stacking activities in Western Sydney—activities that the Leader of the Opposition says must cease. But what could we expect from the member for Reid? Let us face what the member for Werriwa has said, admittedly in a different context:

> Laurie Ferguson has again demonstrated why he is one of the great embarrassments. His letter ... is a rambling mess. The only reason he is in Parliament is his father had the numbers in Granville. The only reason he is on the frontbench is his brother had the numbers in the Left. ... If the Fergusons were listed on the stock market it would be under the trading name, Nepotism Inc.
>
> … … …
>
> Laurie's political ability was fully exposed during the last campaign. It is an embarrassment to the Labor movement to think of him as a future minister.

The Leader of the Opposition is now contemplating a reshuffle. I put it to the Leader of the Opposition that he must drop the member for Reid from his frontbench, first of all, for incompetence and, second, for misleading the parliament.

Mr Latham—I ask that the minister table all the documents from which he was reading and to which he was referring. I remind you, Mr Speaker, of your ruling that the minister needs to be able to verify all these repeated false accusations. Accordingly, he should table all the documents.

The SPEAKER—My first question to the minister is: was he quoting from documents?

Mr ABBOTT—I quoted from this document.

The SPEAKER—Were the documents confidential?

Mr ABBOTT—This document is not confidential. It is an article from the *Sydney Morning Herald*, and I table it.

The SPEAKER—Let me deal with the other point of order raised by the member for Werriwa. At no stage have I, or any occupier of the chair, demanded verification. What I have indicated is that, where a personal explanation has been given, it should be taken at face value. I have attempted, fairly, to implement that on both sides. The bind the chair faces is, as everyone appreciates, the need not to restrict the opportunity for free speech, while obliging members to make only what they believe are justifiable comments.

Political Parties: Fundraising

Ms GILLARD (2.50 p.m.)—My question is to the Minister for Employment and Workplace Relations, in his capacity as Minister representing the Special Minister of State, on concerns regarding an organisation registered under the Commonwealth Electoral Act. Is the minister aware of the attendance of Mr Dante Tan and another director of Universal Lionshare Pty Ltd at a breakfast fundraiser for the member for Parramatta at the Pacific International Hotel Parramatta on 19 October 2001, during the election campaign, which was addressed by Peter Reith in his capacity as a minister of the government at that time? Can the minister confirm that the principals of this company made cash contributions of over $1,500 in auctions and raffles for the Parramatta Liberal campaign? Minister, have all these contributions been disclosed in accordance with the Commonwealth Electoral Act, or is this an attempt to launder a cash donation to the Liberal Party?

Mr ABBOTT—If the member for Lalor wants to know about money laundering, I suggest she talk to Senator Bolkus.

A government member—And his flatmate.

Mr ABBOTT—That is right. He runs a laundromat. I am not aware of the matters in question. If the member for Lalor has any evidence, as opposed to innuendo, she should make it available to the AEC and we will investigate it.

Health: Tough on Drugs Strategy

Ms LEY (2.52 p.m.)—My question is addressed to the Prime Minister. I refer to the *Global illicit drug trends 2003* report released earlier today by the United Nations Office on Drugs and Crime. What is the Prime Minister's response to the report's findings concerning illicit drugs in Australia?

Mr HOWARD—I thank the member for Farrer for her question and compliment her on her continuing interest in and support for the government's Tough on Drugs campaign. Today, as many members will know, has been declared the International Day against Drugs Abuse and Illicit Trafficking. The *Global illicit drug trends 2003* report released overnight by the United Nations Office on Drugs and Crime has some very in-

teresting things to say about these matters within Australia. That report confirms that, in relation to Australia, law enforcement efforts have been very successful in dismantling heroin trafficking; that more treatment services are available to help those with a drug problem; and that there has been a significant decrease—and this is the most important finding of all—in the use of heroin in Australia and, as a result, the number of heroin overdose deaths has fallen significantly. The report properly goes on to say that vigilance against any regression in these areas is needed.

I think it is a matter of significant achievement that this report confirms that the objectives of the government's Tough on Drugs campaign are steadily being realised. Contrary to the doomsayers, we are making progress—albeit slow progress but nonetheless progress—in the long and hard fight against the terrible scourge of illicit drug abuse in this country. When we introduced the Tough on Drugs campaign in 1998, we had three objectives: we wanted to strengthen law enforcement, we wanted to educate young people against starting drug use in the first place and we wanted to provide alternative treatment for people who wanted to break the habit. We have now invested close to $1 billion in this campaign. What this report demonstrates is that, despite the people who said that a zero tolerance approach would not work, that approach is working: it is making inroads, it is reducing the number of people who die from heroin overdoses, it is resulting in people getting better treatment and it is resulting in record seizures of heroin. For those who care about the future of young people in this country, there is no more important fight than the fight against the scourge of drugs.

This government will continue the policy that it has followed over the last seven years. It will continue to invest resources in fighting the drug tsars, it will continue to revive alternative treatment, it will continue to work with state governments—and I thank them for their cooperation in relation to diversion programs—and it will continue to educate the young based on the philosophy of zero tolerance and encouraging people not to commence drug use in the first place. We still have significant challenges. There is an unwelcome rise in the use of amphetamines and ecstasy and, although the use of cannabis has declined, its use is still far too high. Let me, on the subject of cannabis, congratulate the New South Wales government for having started a radio campaign warning young people about the deleterious effects of cannabis use. There used to be a stupid notion around in this country that you could use cannabis with no damage and with no potential ill effects in the years ahead—that has now been conclusively disproved. It is not only a massive contributor to depression and suicide but it is also a drug whose use will lead to the use of harder drugs. This is the last question time of this sitting, and I cannot think of a more important social note on which to end than to re-declare and reconfirm the absolute determination of this government to continue quite unconditionally its Tough on Drugs campaign.

Immigration: Visa Approvals

Ms GILLARD (2.57 p.m.)—My question is to the Minister for Immigration and Multicultural and Indigenous Affairs. I refer to his answer yesterday that he would not investigate allegations of whether Mr Karim Kisrwani accepted fees from Mr Dante Tan in return for using Mr Kisrwani's influence to stop the cancellation of Mr Dante Tan's visa. Is the minister aware of allegations that Mr Dante Tan paid Mr Karim Kisrwani $220,000 in exchange for Mr Kisrwani using his influence to stop the cancellation of Mr Dante Tan's visa? Will the minister now investigate this matter?

Mr RUDDOCK—The situation has not changed since yesterday. If there are serious allegations for which the member has evidence, it should be put to the department's investigations section to be investigated, and I would expect her to do just that. I do not think they are matters that should be addressed to me. I am not responsible for investigating these matters.

Mr Wilkie—Will you refer them?

Mr RUDDOCK—No, I won't—no evidence has been given to me. If the member has evidence, it should be provided to the investigations section of my department to be dealt with fully and properly, as I would expect it to be.

Political Parties: Fundraising

Mrs GASH (2.58 p.m.)—My question is addressed to the Minister for Employment and Workplace Relations representing the Special Minister of State. Has any new information come to light, Minister, yesterday and overnight about the Bolkus raffle rort and, if so, what is the government's response?

Mr ABBOTT—I thank the member for Gilmore for her question. Overnight, Dante Tan's business partner, Mr John Hadchiti, has given a full account of the pair's business relationship with Senator Bolkus. Last night, Mr Hadchiti said:

> My partner Dante Tan basically said he doesn't want it publicised, so can we contribute something where we don't have to stand in the middle of George and Pitt Street, Sydney, and can it be done?

And then Mr Nick Bolkus said, 'You can buy raffle tickets.' The question of a big donation came about and Senator Bolkus said, 'Thank you very much.' A cheque was handed over on the basis that it went to raffles—and he said, 'Thank you very much.' That was what Mr Dante Tan's business partner said yesterday. He was asked whether Dante Tan was interested in winning a prize. Dante Tan's business partner said, 'No, because the prize from the Labor Party in my opinion could have been a picture of Bob Hawke or a picture of Gough Whitlam, a portrait of some sort—we don't want it.' This raffle was a ruse; this raffle was nothing but a rort for laundering money to the Australian Labor Party.

Mr Latham—Mr Speaker, I rise on a point of order. The question very clearly asked for new information. This is exactly what the minister said yesterday. He is not providing any new information. He has run out of any new information, and he should be brought to order.

The SPEAKER—The minister's answer is in order. I have noted the question.

Mr ABBOTT—The other day Senator Bolkus said that he was involved in major fundraising raffles for the Hindmarsh campaign. Yesterday, the South Australian State Secretary of the Australian Labor Party said that he could not recall any raffle. Senator Penny Wong, who was the Hindmarsh campaign director, said she could not recall any raffle. Steve Georganas, who was the Hindmarsh candidate and a former Bolkus staffer, said that he could not recall any raffle. In fact, the only people who could recall any raffle at all were Senator Bolkus, who could not recall it when he filled out his political disclosure, and Dante Tan's business partner, who did not want it to be a raffle—he just wanted to give $10,000 to Senator Bolkus.

If Senator Bolkus had really written out 494 twenty-dollar raffle tickets, why couldn't he remember that when he filled out his disclosures? If he has had to fill out a revised political disclosure, has he also had to fill out a revised taxation return? This is the ultimate phantom raffle. There was no prize; there was no ticket and there was no winner—except the Australian Labor Party. I said yes-

terday that, since this story broke, Senator Bolkus has been Australia's greatest fugitive after Dante Tan himself. I was wrong. Australia's greatest fugitive is Senator Bolkus's flatmate, the Leader of the Opposition—

Mr Latham—Mr Speaker, I rise on a point of order on the question of relevance. The minister is not applying himself to the question that was asked, because it required new information.

The SPEAKER—I remind the Manager of Opposition Business that, while the answer bears some similarities to the one given yesterday, the standing orders do not in any way prohibit answers being similar. In regard to the minister's latter sentence, I had some difficulty in finding relevance to the question asked. I ask him to come back to the question.

Mr ABBOTT—I was simply making the point that normally you cannot turn the radio on without hearing the Leader of the Opposition carping and snarling about some—

Mr Latham—Mr Speaker—

The SPEAKER—I cannot hear a further point of order when I have not, as yet, heard anything from the minister—and the member for Werriwa may check the *Hansard* record—that in any way reflects on any decision I have made. I am listening closely to what the minister said. He has the call.

Mr ABBOTT—It is important that we get to the bottom of the great raffle rort. It is important not just that Senator Bolkus come out of protective custody but also that the Leader of the Opposition let himself out of house arrest and come clean about Labor's money-laundering scandal. I looked up in the dictionary today the collective noun for 'turkeys'. The collective noun for 'turkeys' is 'raffle'—a raffle of turkeys.

The SPEAKER—Minister, I presume you have concluded your answer. The member for Werriwa was seeking a point of order when I asked you to resume your seat.

Mr Latham—Mr Speaker, my point of order was that the minister is consistently defying your ruling, and I am sure that he should be disciplined under the standing orders.

The SPEAKER—I intervened, as the member for Werriwa is aware, and no other comments made, desirable or undesirable, were outside the standing orders.

Immigration: Visa Approvals

Ms GILLARD (3.06 p.m.)—My question to the Attorney-General and it follows my last question to the minister for immigration. Given that an individual is prepared to make a statement to the Federal Police in relation to an allegation that Mr Dante Tan paid Mr Karim Kisrwani $220,000 in exchange for Mr Kisrwani using his influence to stop the cancellation of Mr Dante Tan's visa, will the Attorney-General refer this matter to the Australian Federal Police for investigation?

Mr WILLIAMS—I think the intervention of the Attorney-General is entirely unnecessary. If a person has a statement to make and a complaint to make alleging a breach of Commonwealth law, they can make it directly to the Australian Federal Police, and that is what should happen.

Iraq

Ms JULIE BISHOP (3.07 p.m.)—My question is addressed to the Minister for Foreign Affairs. Would the minister inform the House how the defeat of Saddam Hussein has changed the lives of the Iraqi people? Would the minister provide practical examples of these changes?

Mr DOWNER—I thank the honourable member for Curtin for her question. I know that, along with all of the members on this side of the House, she is delighted with the role this government played in overthrowing

the barbarous regime of Saddam Hussein. The demise of Saddam Hussein's regime not only was a military victory for the United States, the United Kingdom and Australia but also was a momentous victory for the people of Iraq—people who will no longer be subjected to state-run torture, rape, detention without trial, summary execution and other grotesque human rights violations.

During Saddam Hussein's rule, there was only one political party, the Baath Party, and membership of other political parties was punishable by death. Political parties in Iraq have now multiplied, with many new groupings—such as the National Democratic Movement, the Independent Democratic Movement and even the Constitutional Monarchists—emerging since the downfall of the regime. Saddam's regime systematically killed senior Shiite clerics, it desecrated holy sites, it interfered with religious education and it prevented Shiite adherents from performing their religious rites. The Shiite are now free to practise their religion, illustrated by the celebrations in April of the first Shiite pilgrimage for several decades—an event which of course had previously been banned by the regime of Saddam Hussein.

In Saddam's day, the media in Iraq was very tightly controlled. Today there is unlimited access in Iraq to foreign satellite broadcasts, and about 90 newspapers are operating freely. Economic freedom for Iraqis has been facilitated by the transition from a centrally planned economy to the liberal market system. There has also of course been the lifting of sanctions against Iraq, which in itself was enormously beneficial. The House may also be interested to know that tariffs have been removed on imports—a dispensation that will remain in place until 31 December. That will, obviously, increase the availability of consumer items and it will make those items available at cheaper prices than would otherwise be the case. Services in Iraq are also improving. The honourable member would no doubt be aware that, in Iraq, electricity is now more available to more Iraqis than was the case before the war started earlier this year.

Having said all this, despite the greater political, religious and economic freedoms we have no illusions about the challenges that lie ahead in Iraq—they are obviously very substantial. There are still sympathisers of the former Baathist dictatorship who are determined to attack coalition forces and also Iraqis. From our side of the House, the government, we very warmly welcome the growing international role in helping with the rehabilitation of Iraq. This week over 50 countries committed themselves to holding a major donor conference in Iraq in October this year and—this is an important statistic—some 40 countries are expected to send troops to support the coalition-led stabilisation force in Iraq.

The transition from the barbaric dictatorship of Saddam Hussein to a more liberal Iraq is not only something that we on this side of the House welcome but also something which, most importantly, is warmly welcomed by the people of Iraq. I say again what I said yesterday: never will our pride diminish in the role we played in liberating the people of Iraq.

MINISTER FOR IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS

Censure Motion

Ms GILLARD (Lalor) (3.12 p.m.)—I move:

That so much of the standing and sessional orders be suspended as would prevent the Member for Lalor moving forthwith:

That this House censures the Howard Government and the Minister for Immigration, Multicultural and Indigenous Affairs for:

(1) failing to refer to the Federal Police for investigation the allegation that Dante Tan paid Mr Kisrwani the sum of $220,000 in exchange for Mr Kisrwani using his influence to stop the cancellation of Mr Dante Tan's visa;

(2) failing to properly explain the awarding of permanent residency and citizenship to Dante Tan, the Philippines most-wanted corporate fugitive, following a donation of $10,000 to the Liberal Party from Mr Tan;

(3) failing to properly explain the inappropriate and recurring involvement of Mr Karim Kisrwani in a large number of migration cases where applicants have sought Ministerial intervention in the awarding of a visa and most especially that of Dante Tan and Bedweny Hbeiche; and

(4) for continuing to undermine the integrity and honesty of Australia's migration system via his awarding of visas following donations to the Liberal Party.

During the last three weeks, as the cash for visas scandal has unfolded, this House has heard of the Lebanese Friends of Mr Ruddock. What now stands revealed is that Minister Ruddock is the President of the Australian Friends of Mr Karim Kisrwani and Mr Dante Tan was vice-president of the very same organisation. One can only assume that one of the reasons Mr Dante Tan—this Christopher Skase style figure—fled the country, is so he can travel the world setting up international branches of the Karim Kisrwani friendship group. No doubt that is why the government sat idly by and let Dante Tan flee the country. There may have been a chase for Skase, but no-one in the Howard government wanted to be part of the plan to catch Tan.

The minister for immigration deserves censure for the cash for visas scandal. The scandal is a complex one, and the key to understanding it is to understand the roles played by Minister Ruddock and Mr Karim Kisrwani. Mr Kisrwani is the key which unlocks the door to this scandal. Mr Kisrwani is a personal friend of the minister for immigration going back over a number of decades: they dine together; they are frequently in each other's company; Mr Kisrwani is able to ring members of the minister's staff; Mr Kisrwani is able to ring members of the minister's department and have them record on file that that intervention has been made. He is a peddler of influence, a Mr Fix it: 'Go and see Mr Kisrwani and he fixes up visas for you.'

And now we have an allegation that Mr Kisrwani received $220,000 from Mr Dante Tan, the Philippines' most wanted corporate fugitive, in order for him to use his influence with this minister to get that matter resolved. We have an allegation of $220,000 changing hands and, as I understand it from question time, this government most certainly does not want to investigate it. As I understand it, they are not even sure they want to debate it as we are doing here today. We are asking the minister for immigration to come forward and explain the nature of his relationship with Mr Kisrwani, the number of matters Mr Kisrwani has been involved in, whether he has ever had any information before him that Mr Kisrwani has charged for his 'immigration services' in breach of the law, and what is known about this allegation of $220,000.

What we do know is that day after day in this House we have asked this minister to detail how many times Mr Kisrwani has approached him about immigration matters. Question after question and day after day, that stands unanswered. It is not that the system is not capable of generating figures. When the minister wants it to generate figures about East Timorese, it does; when the minister wants it to generate figures about the number of second interventions, it does; when the minister thinks he is on a good case against the member for Reid, it somehow

spews out figures remarkably. The only figure we cannot get from the system is the figure that is the key to this scandal, which is: how many times has Mr Karim Kisrwani been involved? I suspect the reason the minister does not want to do that is that, even formally on the file, in the form of letters, there will be many, many interventions—hundreds, I would suggest.

Mr Crean—Just run the word search!

Ms GILLARD—Yes; he does not want to do that search, because he knows that the number will be high. I believe another reason that the minister does not want to do it is that he knows that many of the matters that have come to his attention from Mr Kisrwani have been in circumstances where there would not be a letter or there would not be a file note, because there has been a private discussion which has ensured that that file has got in front of the minister. That is the reason that the minister is stonewalling on answering how many times Mr Karim Kisrwani has been involved in immigration matters. If I am wrong about that, then during the course of this afternoon the minister can tell us that figure. It simply defies belief to say the system cannot produce that figure when it has produced so many other figures.

Let us turn to the question of Mr Kisrwani and his role in the Dante Tan matter. There is an allegation now about $220,000, but there is so much else unexplained about the Dante Tan matter. This is a man who comes to this country to build a business. The minister asserts a business was built. He asserts that on the departmental file there is a business monitoring survey and he asserted on television—but never in this House—that there are bills of lading attached to that. What he has not asserted, and what I do not think he will ever assert, is that there actually was a business. There might have been a load of documents, but there actually was not a business. The Philippines' biggest corporate crook comes to Australia, engages in a bit of document manipulation and there is never an independent check as to whether or not there was a business. But we do know that there was a donation to the Liberal Party—an actually disclosed donation to the Liberal Party—and there is an allegation about a major payment by Dante Tan.

In this House during the course of this week, the minister stonewalled on these matters. He has refused to actually answer this question: how many times has he dealt with Mr Karim Kisrwani on immigration matters? He has said, 'I stand by the decisions I made.' Good result, Minister; good result. Dante Tan gets into Australia, gets a permanent visa and expedited citizenship, and then flees the country. Good result; good decision to stand by. Got that 100 per cent right, didn't we? This is the man who holds himself out as the architect of the integrity of the immigration system. Yet here he is standing by a result where a corporate fugitive, who is on the local warning list in the Philippines embassy—warning, warning; this is a bad person—got into this country and despite that, following a donation to the Liberal Party and following a course of dealing with Mr Karim Kisrwani potentially involving $220,000, this man gets permanent residency and expedited access to Australian citizenship. And if people in this House on that side do not think that requires explanation, then I really do not know what they would say requires explanation.

Mr Hardgrave interjecting—

Ms GILLARD—There is a lot of waving of hands here, but that is what has happened, and I believe that the two ministers—the Minister for Citizenship and Multicultural Affairs as well—know that. Mr Karim Kisrwani is clearly the key to these matters.

What we also know is that not only is Mr Kisrwani involved in the Dante Tan matter—

he is not just rubbing shoulders with the biggest corporate crook from the Philippines—but also he is absolutely key to the Hbeiche matter, which we have raised in this place and which still remains largely unexplained. There has never been an explanation as to how the file got to the minister on the third occasion. He has dealt with it twice; on the second occasion they say, 'Don't show this to him any more.' What got it back up to you again, Minister? The only possible explanation for that is that you asked for it or a member of your staff asked for it, and then you determined to make a decision on information which was available on the file six years earlier—an unexplained matter. This short opportunity—there is a lot more to go through—is my opportunity to say to this minister: you have got an option now to explain your relationship with Karim Kisrwani. He is the key to this scandal. Your relationship with him is the key to the scandal. There is an allegation about $220,000 changing hands. He is at the centre of the Dante Tan matter. He is at the centre of the Bedweny Hbeiche matter. Karim Kisrwani, with Minister Ruddock, is at the centre of the cash for visas scandal, much of which, after four weeks of parliamentary questioning, remains unexplained. It should be explained now. *(Time expired)*

The SPEAKER—Is the motion seconded?

Mr Laurie Ferguson—I second the motion and reserve my right to speak.

Mr Latham—Mr Speaker, I rise on a point of order. Ten minutes ago when the member for Lalor moved her suspension motion to facilitate a censure in the House, the Prime Minister said, 'I accept it.'

Opposition members interjecting—

Mr Abbott interjecting—

The SPEAKER—Order! The member for Werriwa has the call. I do not know why he would need any help from anyone behind him.

Mr Latham—Mr Speaker, the Leader of the House has just said, 'We will take the suspension.' This makes the point perfectly. The member for Lalor has the right to move the suspension, irrespective of what the government thinks. There is no right to accept or refuse it. The Prime Minister having said, 'I accept it,' the only thing he can possibly accept is the censure motion, which should now proceed before the House.

The SPEAKER—Let me indicate that from the chair's perspective all that has happened to date is entirely according to Hoyle—or the standing orders, which may be even better, if you reflect on it. The member for Lalor has moved to suspend standing orders, and the time allocated for her to do so is as is normally the case. The member for Reid has indicated that he wanted to second it. I now recognise the Leader of the House.

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (3.23 p.m.)—I think it is high time that members opposite finally realised that on this matter they are flogging a dead horse.

Opposition members interjecting—

The SPEAKER—Order! I expect that the same courtesy extended to the member for Lalor will be extended to the Leader of the House, or I will take action.

Mr ABBOTT—It is high time that members opposite understand that this pursuit of the Minister for Immigration and Multicultural Affairs has completely blown up in their faces because of the incompetence of the member for Reid, because of the venality of Senator Bolkus and because of the honesty of the minister for immigration. The minister for immigration is an honest man who has been unjustly maligned day in, day

out in this place by members of the opposition who have no evidence whatsoever for their repeated smear. There is innuendo, there is smear and there is traducing of reputations; but the one thing they do not have is any hard evidence whatsoever.

There was actually a new smear today. There was the allegation that Mr Dante Tan had paid $220,000 to Mr Karim Kisrwani. If this were anything other than scuttlebutt—if this were anything other than fourth- or fifth-hand rumour—they would have dwelt on that matter today, because it was at least a new factoid, if you like; it was new pseudo-information. The fact that they did not dwell on the so-called $220,000 business relationship demonstrates that they did not have any hard evidence whatsoever—just endless smear, endless innuendo, endless traducing of the reputation of a good man and a fine minister.

Let me just pose this question: why shouldn't Karim Kisrwani and Mr Dante Tan have a business relationship with one another? Let us face it—

Ms Gillard interjecting—

Mr ABBOTT—Yes, but we are talking about a business relationship here; we are not talking about offering immigration advice. What is so bad about Dante Tan and Karim Kisrwani having a business relationship with one another when Dante Tan had a business relationship with Senator Bolkus? Dante Tan and Senator Bolkus investigated business deals together. If it is all right for Senator Bolkus, why isn't it all right for Dante Tan to have a business relationship with Karim Kisrwani?

In the end what this series of allegations boils down to is the claim that there is something wrong with the minister for immigration being friends with Mr Karim Kisrwani. Mr Karim Kisrwani is a distinguished member of the Lebanese community. Why is it that members opposite are coming in here day in, day out and smearing the Lebanese community? Why are they making them guilty by association? There is nothing whatsoever wrong with the minister for immigration having a friendship with Karim Kisrwani. Karim Kisrwani is a decent, upstanding Australian citizen. He has been granted the Order of Australia medal by the Order of Australia Council. Not only has he been a good friend of the minister for immigration over the years but, as we now know only too well, he has been a good friend of the member for Reid over the years—a friendship which the member for Reid was only too happy to burn in his insane pursuit of the minister for immigration. Not only has he been a friend of the minister for immigration, he has been a good friend of Mr Eddie Obeid. I suspect that over the years half the Labor members of Western Sydney have been good friends of Mr Karim Kisrwani. If it is good enough for the Labor Party, it ought to be good enough for everyone. Why can't the minister for immigration have a good friendship with Mr Karim Kisrwani?

The other allegation is that there has been some kind of improper influence exerted, just because Mr Karim Kisrwani at different times has made representations as a friend on behalf of members of the Lebanese community. We have come to a sorry pass in a democracy when one Australian citizen is not allowed to approach a member of parliament or a minister in a government on behalf of a friend. Is that what they are really saying? Are they saying that there is something wrong with a decent, upstanding Australian citizen approaching a minister in a government and asking if they can do something? Of course, this is an absolutely absurd allegation.

Mr Zahra interjecting—

The SPEAKER—The member for McMillan is warned!

Mr ABBOTT—The repeated allegation of something as absurd as this not only does not do the members opposite any credit but also brings the parliament into disrepute.

There is nothing wrong with citizens making donations. It only becomes a problem when those donations are not properly disclosed under the Commonwealth Electoral Act. If there is one clear fact that has emerged from the debate, or at least the smear which has come from members opposite over the last three weeks of parliamentary sitting, it is that the one donation that has been improperly disclosed—in fact, not disclosed at all—was the infamous $10,000 donation by Dante Tan to Senator Bolkus.

There is nothing wrong with making representations on behalf of Australian citizens—nothing wrong whatsoever. Sure, it is wrong to exercise improper influence, but at no stage whatsoever has there been any hard evidence—not a shred, not a skerrick, not a tittle—adduced by members opposite to justify their repeated accusations and allegations against the minister for immigration. In the end it boils down to this: there was a decision and there was a donation, or there was a donation and there was a decision.

In her initial censure speech on this subject the member for Lalor said, 'He made a decision, and then there was a donation; therefore, there was some kind of improper influence brought to bear.' She also liked to quote Virgil at us in that speech. Let me quote a bit of Latin back to her. What she is saying is, 'Post hoc ergo propter hoc'. I am sure that the Latin scholars on the government side would know what her argument is: 'After this; therefore, on account of this'. What she has got to do is demonstrate the 'propter', and there is no 'propter'. There is no 'on account of' that members opposite have been able to demonstrate.

Do you know what the minister for immigration's real crime is in the eyes of members opposite? He is a very good minister. For the first time in years, the administration of Australia's immigration policy is on a sound footing. For the first time in years, the whole of the Australian community are united behind our immigration policy because they know that, for the first time in years, there is a clean minister running a straight policy—a policy that is in the national interests of this country. That is the minister for immigration's great achievement, and that is why he is so widely respected by the Australian community. That is why members opposite will do anything—traduce anyone, blackguard any reputation, burn any friendship—in order to drag this minister down. They have not succeeded at all. The minister for immigration has emerged from three weeks of blackguarding with his reputation sound, standing tall and respected by the Australian people. The only people who have emerged with their reputations shattered by this are the member for Lalor, the member for Reid and the puppetmaster there, the Leader of the Opposition—the flatmate in chief.

Mr LAURIE FERGUSON (Reid) (3.33 p.m.)—If we wanted any confirmation of the intimate relationship between the Liberal Party, its fundraising and Mr Dante Tan, we have had it today and yesterday in the operations of the Minister for Employment and Workplace Relations, in close collusion with the solicitors of Mr Dante Tan, CK Partners, the people through whom Mr Kisrwani has channelled some of these immigration cases—and Mr Dante Tan is the person who is intimately connected with this whole case. Mr Walid and Mr Albert Kalouche have been in contact with the minister persistently to try to drag over the question of multifaceted immigration cheating with some kind of wild, preposterous claim that the Labor Party

Left was branch stacking with friends of the minister. That is the reality: that everything produced by this minister in the last day has come directly from the employees of Dante Tan, the person who is at the centre of this whole immigration case.

This relationship is not new. It is very interesting to look at the Liberal Party and the way they have socialised constantly with Mr Dante Tan over the last two years. We have the minister for immigration. He has only met him socially two or three times. He cannot recall where, he does not know the venue, he does not know whether it was fundraising, but he is sure that it was not at Romeo's restaurant. However, Mr Karim Kisrwani, his close friend and a business partner of Mr Tan's, says that the minister met Mr Tan at that event.

Then we have the member for Parramatta. He is in a whole series of other social events with Mr Dante Tan, the fugitive who faces 147 years in jail—the fugitive for the conferral of whose citizenship he walked away from his electorate office to be personally there. In contrast, Minister Abbott has been to a whole lot of separate events. We know from him that he was on a harbour cruise fundraiser. Mr Tan, the multimillionaire, was on the fundraising cruise, but they did not get any money out of him. He was such a good bloke—such a good friend of Mr Abbott's and Mr Cameron's—that he was just brought along for company. How preposterous! That is another event where we see the Liberal Party out there socialising with this escapee, this fugitive.

We also heard reference from the member for Parramatta to having socialised with him at a Melbourne Cup event. We have a situation today with regard to the Pacific International Hotel at Parramatta, an event where Mr Reith was the guest speaker. Once again, Mr Tan and the Lion share operation were present. They gave donations well in excess of $1,500, we can assure the Minister for Employment and Workplace Relations. They gave those donations. There are a few other fundraisers of the Parramatta campaign where these individuals were present.

Today the minister for workplace relations has said that it is all right for people to make representations and that there is nothing criminal about an individual coming to a minister. The person involved in this has been a consistent attendee at functions and has made a donation to the political party. Whilst he has the right to establish a business with any individual in this country, it seems just slightly too big a coincidence to me that the person he formed a partnership with was a close confidant of the minister—a person who has such audacity and effrontery that he has been ringing up the department and saying, 'I'm ringing on behalf of the minister.' That is the kind of entrée he has had into that department. This is the person Dante Tan decided it would be good to go into business with. This is the person who obviously put in a lot of heavy work with regard to this case. The reality is that this person—

The SPEAKER—I would ask the member for Reid to wind up his remarks.

Mr LAURIE FERGUSON—The support for this man is unending. We had the member for Parramatta out there the other week saying—and he is still saying this after the Philippines authorities' exposés—'I would say Mr Tan was fairly up front, and I found him to be quite an honest person.' How preposterous!

Question put:

That the motion (**Ms Gillard's**) be agreed to.

The House divided. [3.42 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes……	64
Noes……	79
Majority……	15

AYES

Adams, D.G.H.	Albanese, A.N.
Beazley, K.C.	Bevis, A.R.
Brereton, L.J.	Burke, A.E.
Byrne, A.M.	Corcoran, A.K.
Cox, D.A.	Crean, S.F.
Crosio, J.A.	Danby, M. *
Edwards, G.J.	Ellis, A.L.
Emerson, C.A.	Evans, M.J.
Ferguson, L.D.T.	Ferguson, M.J.
Fitzgibbon, J.A.	George, J.
Gibbons, S.W.	Gillard, J.E.
Grierson, S.J.	Griffin, A.P.
Hall, J.G.	Hatton, M.J.
Hoare, K.J.	Irwin, J.
Jackson, S.M.	Jenkins, H.A.
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.
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.	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.
Cadman, A.G.	Cameron, R.A.
Causley, I.R.	Charles, R.E.
Ciobo, S.M.	Cobb, J.K.
Costello, P.H.	Downer, A.J.G.
Draper, P.	Dutton, P.C.
Elson, K.S.	Entsch, W.G.
Farmer, P.F.	Forrest, J.A. *
Gallus, C.A.	Gambaro, T.
Gash, J.	Georgiou, P.
Haase, B.W.	Hardgrave, G.D.
Hartsuyker, L.	Hawker, D.P.M.
Hockey, J.B.	Howard, J.W.
Hull, K.E.	Hunt, G.A.
Johnson, M.A.	Jull, D.F.
Kelly, D.M.	Kelly, J.M.
Kemp, D.A.	King, P.E.
Ley, S.P.	Lindsay, P.J.
Lloyd, J.E.	May, M.A.
McArthur, S. *	Moylan, J. E.
Nairn, G. R.	Nelson, B.J.
Neville, P.C.	Panopoulos, S.
Pearce, C.J.	Prosser, G.D.
Pyne, C.	Randall, D.J.
Ruddock, P.M.	Schultz, A.
Scott, B.C.	Secker, P.D.
Slipper, P.N.	Smith, A.D.H.
Somlyay, A.M.	Southcott, A.J.
Stone, S.N.	Thompson, C.P.
Ticehurst, K.V.	Tollner, D.W.
Truss, W.E.	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.	

* denotes teller

Question negatived.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Political Parties: Fundraising

Mr ABBOTT (Warringah—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (3.48 p.m.)—Mr Speaker, may I add to an answer?

The SPEAKER—The minister may proceed.

Mr ABBOTT—In question time today I was asked a question about a fundraiser in October 2001 involving Mr Peter Reith. The allegation was made, by way of a question, that associates of Dante Tan made donations at that fundraiser in excess of the disclosure limit. I have been given some information about that function. Associates of Dante Tan purchased four tickets at $50 each. There were three silent auction items involved,

none of which were purchased by Mr Tan or his guests. Seventy-five people attended the function, but obviously no money was provided by Mr Tan or associates of Mr Tan in breach of the disclosure requirements.

PRIVILEGE

Mr WINDSOR (New England) (3.49 p.m.)—Mr Speaker, I rise on a matter of privilege. I would like to raise two matters. Yesterday I attended a media conference of the Minister for Communications, Information Technology and the Arts and the Minister for Transport and Regional Services whereat they announced the government's proposal to fully privatise Telstra. On completion of their statements and after the two ministers had left the room, I proceeded to the front of the room to make a statement to the media. On completion of my statement, I made my way towards the door, where I was verbally abused by a man who was not known to me as either a member, a senator or a staff member. As I walked out the door and down the corridor away from the room, this unknown person continued to walk with me. He continued his abuse and accosted me. His comments to me were intimidating and uncalled for. His body language was threatening, and he was within what I would describe as my reasonable personal space.

Government members interjecting—

The SPEAKER—There is a group on the member for New England's left who ought to be extending a great deal more courtesy and adhering to the standing orders or I will deal with them.

Mr WINDSOR—As we went to go out of the main corridor, this person made a comment to me about attending my media conferences. I then asked for his card so that I would be able to invite him.

The SPEAKER—Not a great deal of detail is needed but I do need to know whether the case which the member is proposing is in fact a genuine matter of privilege, because this is a serious matter before the House.

Mr WINDSOR—Yes, I am coming to that. Having been a member of the New South Wales parliament for 10 years and a member of this parliament for 18 months, while not entirely happy with the behaviour of this person in a supposed secure environment I was prepared to accept this form of behaviour as part of the cut and thrust of politics. The other issue I would like to raise is that in the *Age* newspaper today it was reported in an article that certain language was used by me. However, the reporter was not in the vicinity of any conversation that was held.

The SPEAKER—The member for New England must come to the point of privilege.

Mr WINDSOR—The point of privilege is to seek advice from you on the conduct of this senior member of a minister's staff in accosting and abusing a member of parliament—

The SPEAKER—Privilege is a very serious matter. The matters raised by the member for New England do not in my view constitute a prima facie case of privilege.

Honourable members interjecting—

The SPEAKER—There are some who would clearly like to find themselves on an early plane.

Honourable members—Yes!

The SPEAKER—I understand that sentiment. But with it will go the disgrace of their no longer represent their constituents. I point out to the member for New England that it would seem to me appropriate that he raise this matter with me. I will then allow him to return to the House if it is a matter of privilege. I am concerned that what he has indicated to date would have difficulty justifying referral to the Privileges Committee. But I would be prepared to do so if there are

matters that are more serious than the matters he has raised to date.

Mr WINDSOR—Mr Speaker, I take your advice. But I would indicate that there are witnesses to the way in which this man harassed and abused me.

Mrs Bronwyn Bishop—Mr Speaker—

The SPEAKER—The member for Mackellar will resume her seat! Privilege is a very serious matter. I have indicated to the member for New England what I think is a reasonable course of events. The matter will be revisited in the House for my consideration and the House's decision if I believe that is what ought to happen. If the member for New England believes that he has not had an adequate hearing, he can raise the matter again in the House. But I do not believe that the facility for privilege which the standing orders provide is currently being met by what he has said. I advise him, therefore, to raise it later with me.

Mr Leo McLeay—Mr Speaker, on that matter, will you be able to report back to the House before we rise about whether or not you will give precedence to a motion?

The SPEAKER—I will meet with the member for New England before the House rises and give as fulsome an explanation as I can. I would not want to deny any member the right to privilege but neither do I want, as the member for Watson would well understand as a former occupier of the chair, the matter of privilege to be used as a way of raising something that might have been appropriately raised in, for example, an adjournment debate.

Mrs Crosio—Mr Speaker, further to the matter raised by the member for New England, I—and I am sure many on both sides of this House—would be concerned if any staffer tried to intimidate an individual. What recourse do we have? What advice can be provided by you as the chair and by the President of the Senate so that each one of us knows exactly where we stand if a ministerial head of staff intimidates a person going about their business? I believe each one of us as elected representatives has the right to that knowledge.

The SPEAKER—The member for Prospect knows that neither I nor the President of the Senate would tolerate any such action. I thought I had acted responsibly with regard to the issue raised by the member for New England. In response to the member for Watson, I have indicated my willingness to report back to the House. I do not believe that I need further advice from the member for Prospect about how this matter should be dealt with. The House can consider it further when I do so.

Dr Emerson—Mr Speaker, to assist in your deliberations on this matter, you may recall that I gave the member for Sturt a free character reference at another place, the Holy Grail. I did not physically threaten him. On that occasion you sought the tape to determine whether a matter of privilege was involved. There was no physical intimidation and it was outside the parliament; in this case, there obviously was a suggestion of physical intimidation and it was inside the parliament. I hope you take that into account.

The SPEAKER—I would have thought it fairly obvious to the member for Rankin that that matter could easily have been raised with me outside the House.

Mr Billson—Mr Speaker, in your deliberations on the issue raised by the member for New England, could you give consideration to the following: where a part of this building has been booked for a legitimate purpose by a member or a senator—you or I might be having a quiet conversation—

The SPEAKER—The member for Dunkley will resume his seat.

Mr Billson interjecting—

The SPEAKER—The member for Dunkley is warned!

Mr Billson interjecting—

The SPEAKER—The member for Dunkley will excuse himself from the House.

The member for Dunkley then left the chamber.

The SPEAKER—Any suggestion that a matter of privilege can be dealt with lightly would be a matter of major concern to every occupier of the House. I have indicated what I will do. Any member is welcome to raise issues with me, as they are aware. It does not seem appropriate to advance this matter any further at this stage.

PERSONAL EXPLANATIONS

Mr LAURIE FERGUSON (Reid) (4.00 p.m.)—Mr Speaker, I wish to make a personal explanation.

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

Mr LAURIE FERGUSON—Yes, very grievously.

The SPEAKER—Please proceed.

Mr LAURIE FERGUSON—Today, the Minister for Employment and Workplace Relations, on behalf of Mr Tan's legal team, again sought to present a conspiracy theory between me and Mr Kisrwani.

The SPEAKER—The member for Reid must come to the point where he was misrepresented.

Mr LAURIE FERGUSON—I join the issues at hand. I reiterate that Mr El Dirani has a head office ticket in the Labor Party that entitles him to no voting rights whatsoever. He is not a member of a branch of the Labor Party, including the one you cite at Oatlands.

The SPEAKER—The chair would have been facilitated if the member for Reid had prefaced his remarks by saying that 'statements today had implied that the member for Reid', for example, and had then indicated where he was being misrepresented.

Mr LAURIE FERGUSON—The minister's statements today referred to a claim that I misled the House in regard to this person having a head office ticket. I reiterate the position: the person in April 1999 attended one meeting. Labor Party rules—I know you are an expert on this—

The SPEAKER—The member for Reid must be aware that he is being extended a great deal of leniency by the chair. Any—I repeat, any—abuse of the standing orders and he will find himself, if he is lucky, returned to his seat or, if I am feeling as I am feeling now, outside the chamber.

Mr LAURIE FERGUSON—The other point is a claim that Mr El Dirani has never paid by credit card. I ask the minister to look at credit card 4509 421 6189 6565 to establish that this person has consistently paid by credit card.

Mr Abbott—Mr Speaker, I rise on a point of order. Under the standing orders protecting citizens it is most improper of the member for Reid to start giving out alleged credit card numbers, given the extent of credit card fraud and identity theft.

Mr Latham—On the point of order, Mr Speaker: what the Leader of the House is suggesting to the House is that it is all right for him to read out the man's ALP membership number, but it is not okay for the member for Reid to read out the credit card number—

Mr Martin Ferguson interjecting—

The SPEAKER—The member for Batman knows that he is stretching the limit. I point out to the House that I have been more than generous to the member for Reid in a matter that goes beyond the bounds of a normal personal explanation. I have done so because I am anxious that no-one should be

misrepresented in the House. I think the Leader of the House made a very valid point that the member for Reid may care to bear in mind. There is no comparison, from a privacy point of view, between the availability of a credit card number and the availability of a party membership number. Does the member for Reid wish to conclude his personal explanation?

Mr LAURIE FERGUSON—In regard to allegations about the head office ticket and credit card payments, the case is undermined. I seek an apology from the minister.

Mr Baldwin—Mr Speaker, I rise on a point of order. Isn't the purpose of a personal explanation to point out where he has been misrepresented, not where others of the Labor Party have been?

The SPEAKER—The member for Paterson will resume his seat.

BUSINESS

Mr ABBOTT (Warringah—Leader of the House) (4.04 p.m.)—It might help members of the House if I gave them some information as to the likely sitting this evening. As all members would appreciate, it is the desire of the government to try to ensure that we can leave here as soon as possible. The latest advice I have from the Senate is that there is every chance that we will be able to conclude our business by a reasonable hour this evening. According to the Senate, a reasonable hour is 11 p.m. or midnight. My expectation is that, if that does not turn out to be the case, we will adjourn the House at a reasonable hour this evening and come back at 8 o'clock tomorrow morning and, hopefully, finish our business before 9 o'clock.

AUDITOR-GENERAL'S REPORTS

Report No. 58 of 2002-03

The SPEAKER—I present the Auditor-General's audit report No. 58 of 2002-03 entitled *Veterans' appeals against disability compensation decisions—Follow-up audit: Department of Veterans' Affairs;Veterans' Review Board*.

Ordered that the report be printed.

PAPERS

Mr ABBOTT (Warringah—Leader of the House) (4.06 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* and I move:

That the House take note of the following paper:

Legal and Constitutional Affairs—Standing Committee—Report—Cracking down on copycats: enforcement of copyright in Australia—Government response.

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

Mr ABBOTT (Warringah—Leader of the House) (4.06 p.m.)—I present papers on the following subjects, being petitions which are not in accordance with the standing and sessional orders of the House:

Seeking electronic banking facilities at the Somers Post Office—from the member for Flinders—200 Petitioners

Concerning distribution of wealth—from the member for Melbourne Ports—62 Petitioners.

BUSINESS

Mr MURPHY (Lowe) (4.07 p.m.)—Mr Speaker, through you I ask the Leader of the House whether he is anticipating that the Broadcasting Services Amendment (Media Ownership) Bill 2002 will be coming back to the House tonight from the Senate?

The SPEAKER—That is unusual but I will allow it to happen. Does the Minister want to respond?

Mr ABBOTT (Warringah—Leader of the House) (4.07 p.m.)—I am happy to respond. I do not have that list in front of me at the

moment but I will advise the member one way or another.

COMMITTEES

Reports: Government Responses

The SPEAKER (4.08 p.m.)—For the information of honourable members, I present a schedule of outstanding government responses to reports of House of Representatives and joint committees, incorporating reports tabled and details of government responses made in the period between 11 December 2002, the date of the last schedule, and 26 June 2003. Copies of the schedule are being made available to honourable members.

The schedule read as follows—

THE SPEAKER'S SCHEDULE OF OUTSTANDING GOVERNMENT RESPONSES TO REPORTS OF HOUSE OF REPRESENTATIVES AND JOINT COMMITTEES

(also incorporating reports tabled and details of Government responses made in the period between 11 December 2002, the date of the last schedule, and 26 June 2003)

26 June 2003

THE SPEAKER'S SCHEDULE OF OUTSTANDING GOVERNMENT RESPONSES TO COMMITTEE REPORTS

On 25 June 2003, the government presented its response to a schedule of outstanding government responses to parliamentary committee reports tabled in the House of Representatives on 12 December 2002.

It is government policy to respond to parliamentary committee reports within three months of their presentation. In 1978 the Fraser government implemented a policy of responding in the House by ministerial statement within six months of the tabling of a committee report. In 1983, the Hawke government reduced this response time to three months but continued the practice of responding by ministerial statement. The Keating government generally responded by means of a letter to a committee chair, with the letter being tabled in the House at the earliest opportunity. In 1996, the Howard government affirmed the commitment to respond to relevant parliamentary committee reports within three months of their presentation. The government also undertook to clear, as soon as possible, the backlog of reports arising from previous parliaments.

The attached schedule lists committee reports tabled and government responses to House and joint committee reports made since the last schedule was presented on 12 December 2002. It also lists reports for which the House has received no government response. A schedule of outstanding responses will continue to be presented at approximately six monthly intervals, generally in the last sitting weeks of the winter and spring sittings.

The schedule does not include advisory reports on bills introduced into the House of Representatives unless the reports make recommendations which are wider than the provisions of the bills and which could be the subject of a government response. The government's response to these reports is apparent in the resumption of consideration of the relevant legislation by the House. Also not included are reports from the Parliamentary Standing Committee on Public Works, the House of Representatives Committee of Members' Interests, the Committee of Privileges, the Publications Committee and the Selection Committee. Government responses to reports of the Public Works Committee are normally reflected in motions for the approval of works after the relevant report has been presented and considered.

Reports of the Joint Committee of Public Accounts and Audit primarily make administrative recommendations but may make policy recommendations. A government response is required in respect of such policy recommendations made by the committee. However, responses to administrative recommendations are made in the form of an Executive Minute provided to, and subsequently tabled by, the committee. Agencies responding to administrative recommendations are required to provide an Executive Minute within 6 months of tabling a report. The committee monitors the provision of such responses. The schedule includes reports with policy recommendations.

26 June 2003

Description of Report	Date Tabled or Published[1]	Date of Government Response[2]	Responded in Period Specified[3]
Aboriginal and Torres Strait Islander Affairs (House, Standing)			
Unlocking the future: The report of the Inquiry into the Reeves Review of the Aboriginal Land Rights (Northern Territory) Act 1976	30-08-99	No response to date[4]	No
ASIO, ASIS and DSD (Joint, Statutory)			
Annual Report 2001-2002	02-12-02	No response to date[5]	No
Communications, Transport and the Arts (House, Standing)			
Local voices: an Inquiry into regional radio	24-09-01	No response to date[6]	No
Back on Track: A review of progress in rail reform	11-05-01	25-03-03	No
Communications, Information Technology and the Arts (House, Standing)			
Connecting Australia! Wireless broadband	11-11-02	No response to date[7]	No
Corporations and Securities (Joint, Statutory)			
Report on aspects of the regulation of proprietary companies	08-03-01	No response to date[8]	No
Corporations and Financial Services (Joint, Statutory)			
Report on the regulations and ASIC policy statements made under the Financial Services Reform Act 2001	23-10-02	No response to date[8]	No
Inquiry into the review of the Managed Investments Act 1998	12-12-02	No response to date[9]	No
Report on the review of the Australian Securities and Investments Commission	26-03-03	Period has not expired	

Description of Report	Date Tabled or Published[1]	Date of Government Response[2]	Responded in Period Specified[3]
Economics, Finance and Public Administration (House, Standing)			
Numbers on the run: Review of the ANAO Report no. 37 1998-1999 on the management of Tax File Numbers	28-08-00	No response to date[10]	No
Education and Training (House, Standing)			
Boys: Getting it right	21-10-02	26-06-03	No
Electoral Matters (Joint, Standing)			
Audit Report No. 42 of 2001-02, Integrity of the Electoral Roll	11-11-02	No response to date[11]	No
2001 Federal Election: Report of the Inquiry into the 2001 Federal Election and matters related thereto	23-06-03	Period has not expired	
Employment, Education and Workplace Relations (House, Standing)			
Shared endeavours: Inquiry into employee share ownership in Australian enterprises	09-10-00	27-03-03	No
Age counts: Inquiry into issues specific to mature-age workers	14-08-00	No response to date	No
Employment and Workplace Relations (House, Standing)			
Back on the job: Report into aspects of Australian workers compensation schemes	02-06-03	Period has not expired	
Environment and Heritage (House, Standing)			
Coordinating catchment management	26-02-01	No response to date[12]	No
Public good conservation: Our challenge for the 21st century	27-09-01	No response to date[13]	No
Foreign Affairs, Defence and Trade (Joint, Standing)			

Description of Report	Date Tabled or Published[1]	Date of Government Response[2]	Responded in Period Specified[3]
From Phantom to Force: Towards a more efficient and effective Army	04-09-00	29-05-03	No
A model for a new Army: Community comments on the 'From Phantom to Force' parliamentary report into the Army	24-09-01	29-05-03	No
Australia's Role in United Nations Reform	25-06-01	27-03-03	No
Visit to Australian Forces Deployed to the International Coalition Against Terrorism (Report 108)	21-10-02	No response to date[7]	No
Review of Foreign Affairs, Trade and Defence Annual Reports, 2000-2001 (Report 106)	23-09-02	27-03-03	No
Report of the 2003 New Zealand Parliamentary Committee Exchange: 6-11 April 2003	23-06-03	Period has not expired	
Industry, Science and Technology (House, Standing)			
Getting a better return: Inquiry into increasing the value added to Australian raw materials Second report	24-09-01	No response to date[8]	No
Legal and Constitutional Affairs (House, Standing)			
Cracking down on copycats: A report on the enforcement of copyright in Australia	04-12-00	26-06-03	No
The third paragraph of section 53 of the Constitution	30-11-95	No response to date[5]	No
Human cloning: Scientific, ethical and regulatory aspects of human cloning and stem cell research	20-09-01	27-06-02[14]	No
Migration (Joint, Standing)			
Not the Hilton-Immigration detention centres: Inspection report	04-09-00	04-03-03	No

Description of Report	Date Tabled or Published[1]	Date of Government Response[2]	Responded in Period Specified[3]
2003 Review of Migration Regulation 4.31B	29-04-03	Period has not expired	
National Capital and External Territories (Joint, Standing)			
In the pink or in the red? Health services on Norfolk Island	06-07-01	No response to date[15]	No
Risky business: Inquiry into the tender process followed in the sale of the Christmas Island Casino and Resort	20-09-01	06-02-03	No
Norfolk Island electoral matters	26-08-02	No response to date[16]	No
Striking the right balance: Draft Amendment 39, National Capital Plan	21-10-02	17-06-03	No
National Crime Authority (Joint, Statutory)			
Witnesses for the Prosecution: Protected witnesses in the National Crime Authority	06-09-00	No response to date	No
The law enforcement implications of new technology	27-08-01	No response to date[17]	No
Australian Crime Commission Establishment Bill 2002	06-11-02	03-02-03	No
Examination on the Annual Report 2000-2001	11-12-02	No response required	No
Native Title and the Aboriginal and Torres Strait Islander Land Fund (Joint, Statutory)			
Nineteenth Report: Second interim report for the s.206(d) Inquiry - Indigenous Land Use Agreements	26-09-01	No response to date[16]	No

Description of Report	Date Tabled or Published[1]	Date of Government Response[2]	Responded in Period Specified[3]
Report on the examination of annual reports for 2000-2001 in fulfilment of the committees duties pursuant to s.206 (c) of the Native Title Act 1993	12-12-02	No response required	No
Procedure (House, Standing)			
Balancing tradition and progress: Procedures for the opening of Parliament	27-08-01	No response to date[8]	No
Sessional Order 344	18-06-03	Period has not expired	
Public Accounts and Audit (Joint, Statutory)			
Corporate governance and accountability arrangements for Commonwealth government business enterprises, December 1999 (Report No. 372)	16-02-00	No response to date[18]	No
Review of the Accrual Budget Documentation (Report No. 388)	19-06-02	13-05-03	No
Review of Independent Auditing by Registered Company Auditors (Report No. 391)	18-09-02	No response to date[19]	No
Review of Australia's Quarantine Function (Report No. 394)	05-03-03	No response to date	No
Science and Innovation (House, Standing)			
Riding the Innovation Wave: The Case for Increasing Business Investment in R&D	23-06-03	Period has not expired	
Transport and Regional Services (House, Standing)			
Moving on intelligent transport systems	09-12-02	No response to date[6]	No
Treaties (Joint, Standing)			
UN Convention on the Rights of the Child (17th Report)	28-08-98	06-03-03	No

Description of Report	Date Tabled or Published[1]	Date of Government Response[2]	Responded in Period Specified[3]
Extradition - a review of Australia's law and policy (40th Report)	06-07-01	No response to date[16]	No
The Statute of the International Criminal Court (45th Report)	14-05-02	No response to date[16]	No
Treaties tabled August and September (48th Report)	21-10-02	19-06-03	No
The Timor Sea Treaties (49th Report)	11-11-02	No response to date[6]	No
Treaties tabled 15 October 2002 (50th Report)	09-12-02	19-06-03	No
Treaties tabled November and December (51st Report)	19-03-03	No response to date	No

These notes reflect the response circulated by the Leader of the House on 25 June 2003 entitled 'Government Responses to Parliamentary Committee reports. Response to the schedule tabled by the Speaker of the House of Representatives on 12 December 2002'.

1. The date of tabling is the date the report was presented to the House of Representatives. In the case of joint committees, the date shown is the date of first presentation to either the House or the Senate. Reports published when the House (or Houses) are not sitting are tabled at a later date.
2. If the source for the date is not the Votes and Proceedings of the House of Representatives or the Journals of the Senate, the source is shown in an endnote.
3. The time specified is three months from the date of tabling.
4. The Aboriginal Land Rights (Northern Territory) Act 1976 is in urgent need of reform to facilitate improved economic outcomes for Indigenous people from the considerable land holdings in the Northern Territory. The government is keen to obtain the input of the major stakeholders in an effort to reach agreement on reforms. The government released on options paper on possible reforms in April 2002 and has received responses from all stakeholders except the Northern Territory government and Northern and Central Land Councils. The government is still awaiting a formal response from those parties before finalising the necessary amendment to the Act.
5. The response is being finalised and will be tabled as soon as possible.
6. The response is being finalised and is expected to be tabled in the near future.
7. The government is considering its response and expects it to be tabled as soon as possible.
8. The response is being finalised and will be tabled shortly.

9. The government is considering the recommendations of the Committee's report and will table a response in due course.
10. The response is being considered and will be tabled in due course.
11. The government is currently considering the recommendations and a response will be tabled in due course.
12. The draft response is in the final approval stage and will be tabled shortly.
13. The response is receiving further consideration prior to tabling.
14. Date of introduction of legislation
15. Following consultation with relevant portfolios the response is being revised and updated.
16. A draft response is under consideration and will be tabled shortly.
17. A draft response is under consideration.
18. The government is presently conducting a 'Review of Governance Arrangements of Statutory Authorities and Office Holders' and finalisation of the government's response is expected following that review.
19. A response to the Committee's report is awaiting finalisation of a government legislative package which is expected to be introduced in the second half of 2003.

MATTERS OF PUBLIC IMPORTANCE

Telstra: Regional Telecommunications

The SPEAKER—I have received letters from the honourable member for Hinkler and the Deputy Leader of the Opposition proposing that definite matters of public importance be submitted to the House for discussion today. As required by standing order 107, I have selected the matter which, in my opinion, is the most urgent and important; that is, that proposed by the honourable member for Hinkler, namely:

The Government's ongoing commitment to regional telecommunications regardless of the future ownership of Telstra.

I call upon those members who approve of the proposed discussion to rise in their places.

More than the number of members required by the standing orders having risen in their places—

Mr NEVILLE (Hinkler) (4.10 p.m.)—Let me say by way of introduction to this MPI that I have never heard so much cant and hypocrisy in this House as I have heard from the opposition over the last two days, both in the chamber and outside, on their attitude to the sale of Telstra. They have not been true to their own mantra. They have not been true to the privatisation policies of Keating. They have not been true to any reasonable interest in regional Australia. Worse still, they have descended to the most rank populism over this issue.

During the election campaign, the Labor Party traipsed across Australia with the member for Brand's worthless pledge: the Telstra pledge. They tried to get me to sign one outside my office. It was very interesting; all the retired unionists were there. But they started to fall away quickly when I brought out two big corflutes with the Commonwealth Bank on one and Qantas on the other. And I said that I would not sign their pledge for two reasons: one, that I had clean hands where Telstra was concerned; and two, that I would not sign the pledge of a serial pledge breaker. If you have a look at the record of the ALP, we have the Commonwealth Bank, Qantas, the Commonwealth Serum Laboratories, the AIDC and the Snowy Mountains—in fact, we had 14 different corporations that were sold off. Worse still, they were not sold off to be put on the bottom line of the incredible $96 billion debt that the Labor government had racked up. They were put against the bankcard, spent, and the Australian population has nothing to show for it.

In 1994-95 the member for Brand, as finance minister, had his department prepare a theoretical five-tranche sale of Telstra. In the forward estimates—and I draw the attention of members to Forward Estimates Strategy Paper No. 27 of that time—valuations and the cost of sales were all costed out. You do not do that unless you are on a short route to sell Telstra. It was known at the time, and it was reported in the *Business Review Weekly* of 21 December 1998, that Mr Keating and the member for Brand met with John Prescott to canvas BHP's buying a slab of Telstra. That is very interesting stuff.

Yesterday the member for Melbourne and the Leader of the Opposition—in their MPI and in their questions at question time—complained about rentals going up from $11.60-odd a month to $26.50. I might be a few cents out there, but the point I am making is that the member for Melbourne, as shadow minister, concocted a scenario of structural separation where the delivery mechanism of Telstra would become one company and the retail section would be another. Implicit in that structural separation is that the rentals, which would be part of the

network infrastructure company, would have to be costed at a fair and appropriate level. That is the level that they are sitting at at present: around $26. The other company, the retail company, would have to have competed on the open market. I suspect that, if he had been the minister, the member for Brand would have demanded that the call cost be around 22c. So he defeats his own argument.

We had a statement from the member for Lingiari about future-proofing. He ridiculed future-proofing. Just ask members of the opposition: where were they when they sold the Commonwealth Bank? Was there any future-proofing there? Were towns with a population of between X thousand and Y thousand given some sort of guarantee that the Commonwealth Bank would remain? No, they were not.

While we are on that point, let me also deal with the matter of sackings, which was also raised yesterday. I believe it was the same two—the Leader of the Opposition and the member for Melbourne; they can correct me if I am wrong—who said that 13,000 Telstra employees were marked for dismissal. Interestingly, most employees of Telstra, or Telecom, who have been sacked in recent years were sacked under the tutelage of the member for Brand as Minister for Transport and Communications. On one occasion 20,000 employees were sacked, and that was with Telecom under full government ownership.

Ms O'Byrne interjecting—

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Bass should remember her status.

Mr NEVILLE—I want to go from the philosophy to the history of what has happened since this government has come to power. We put in place Networking the Nation at a cost of $671 million, $250 million of which put up 278 mobile phone towers. In June 1999 another $214 million went to the BARN scheme—Building Additional Rural Networks. We never heard about any of this during the Labor days. There has been $45 million for local government, $36 million for Internet access programs for regional and rural Australia, and $20 million for remote and isolated communities like Aboriginal and island communities. Then we had Besley—$161 million—and a whole raft of activities that I could refer you to. I will touch on a few of those. We reviewed the customer service guarantee and strengthened the universal service obligation. We put $50.5 million towards improving mobile coverage, $50 million towards Internet assistance programs and $52 million into the National Communications Fund.

More recently we have moved on with the Besley report, spending $181 million in response to that. There are 39 recommendations in that report, and we have accepted all 39 of them. There are some very interesting ones, including $4 million for the satellite handheld phone system and $15 million to improve terrestrial coverage on the highways for mobile phones. Most importantly, we have spent nearly $143 million on a full broadband strategy which people in regional and rural areas have been asking for; $107.8 million on a high bandwidth incentive scheme; $23.7 million on a coordinated communications infrastructure fund, which will go to things like health, education and local government—the important services in regional and rural communities; $8 million for a broadband aggregation system whereby you get people together who can buy broadband at a reasonable price; and nearly $3 million to supervise a broadband strategy program.

On top of the money, there is future-proofing. As I said before, there was no such future-proofing under Labor. Future-proofing means that, as new technologies come in—some of which we do not even know about—mechanisms are in place for them to be delivered by Telstra. The opposition might say, 'How can you guarantee that another government will do it?' It is very simple. The shadow minister can pledge today that the Labor Party will continue that future-proofing. That is a very simple solution; you can do it here today. There are three other important aspects. We are demanding that the old radio concentrator system be upgraded or removed; we want a strategy for improving the quality of telephone services being delivered by the pair gain system; and we want a strategy for addressing Internet dial-up speeds for underperforming pair gain systems. That is a very comprehensive program.

There is an argument that somehow, when you privatise Telstra, all of this is going to fall apart. Whether Telstra is held in full government ownership, partial government ownership or total private ownership, all of the legislative controls will still apply. For example, the universal service obligation guarantees a basic phone service. It guarantees that a phone will be installed within 30 days. If no permanent service can be found in that time, a temporary service has to be in place within five days. The USO insists on payphones being evenly distributed across Australia. Then there is the customer service guarantee, which sets time frames and compensation for installations and repairs which are not carried out in a certain time. It says that, if you cannot have a phone within six months in a remote area, you have to get a temporary one within 30 days. It says that faults will be fixed in one day in metropolitan areas and within three days in the country. It says that the ACA will review all companies in the telecommunications system on an annual basis and Telstra on a quarterly basis.

Under Besley we are adding to that, as a licence obligation, the requirement that Telstra maintain a presence in regional Australia and, by inference, the 39 offices of Telstra Country Wide. I think that all members on both sides of the House recognise very readily the big improvement that that has made in solving day-to-day problems. As a tenderer for competitive contracts, Telstra will still be required to meet its obligations under the law. All of those things stand in place.

Interestingly, if you look at the ACA reports on Telstra over recent years, you will see that there are 11 million potential customer service guarantee recipients in Australia. There were 850,000 services connected in the last 12 months. On a performance basis, 90 per cent of connections have been carried out in the approved time since June 2000, which means for 10 consecutive quarters. I could read through all these performance indicators, but most of them say that standards have improved from around 60 or 80 per cent up to 90 per cent—some of them for six, eight or 10 consecutive quarters. Is that a telecommunications system in decline?

Finally, where does Paul Neville stand? In March 1998—before, I might add, Labor took any populist interest in Telstra; it was well before you guys even came on board—I moved a motion known loosely around the place as the Bundaberg resolution. It benchmarked seven telecommunications and broadcast communications features for the bush; the removal of pastoral call, digital mobile phones to replace the analogue phones that you so wilfully contracted out of the Australian system in the year 2000, the upgrade of ISDN or alternative friendly technology for inaccessible locations, the black

spots program in television and so on. These have all been delivered.

I make no apology for being first to raise in the party room that we should hold the ownership of Telstra at 50.1 per cent. I convinced my National Party and rural Liberal colleagues that they should come with me—and the government came with us too—and for five years we have been delivering those services. They were not delivered in the past. People in the country had been left with an unreliable, ramshackle service, no connectivity to mobile phones and the hated pastoral call impacting on their costs every day of the week in rural Australia. We removed them.

Telstra is not going to be sold tomorrow. This is a framework bill to allow the government at an appropriate time in the future to sell. It may be one, two, three or four years—we do not know exactly when, but it is not imminent. What is important is that these services continue to be delivered. The coalition has maintained this and the Prime Minister has put in place a task force, which I will have the privilege of leading, to ensure this. It was not offered to me as a sop, as some of you have said. I had no idea it was going to be offered to me. *(Time expired)*

Mr TANNER (Melbourne) (4.25 p.m.)—Yesterday I had one or two rather uncharitable things to say about the National Party. It seems that I did them something of a disservice on two fronts. I failed to give a full account of their very honourable and long political record in Australia. I forgot to mention, for example, that the National Party saved Australia from several years of Billy McMahon as Prime Minister, vetoing his choice by the Liberal Party in 1968. So we only had a couple of years of Billy McMahon instead of about four or five. I also did them a disservice, I am afraid, by suggesting that they were dying. It appears that I was wrong.

The DEPUTY SPEAKER (Hon. I.R. Causley)—I might remind the member for Melbourne that yesterday the National Party was the subject of a matter of public importance but today it is not. I would like you to come back to the matter of public importance.

Mr TANNER—I am perfectly entitled to make reference to the party of the member who has just spoken and who, indeed, has moved this matter of public importance. It appears that I was wrong: there is life in the old dog yet—they are actually fighting back. This time they have really taken the gloves off and they have nicked our MPI. They have stolen our MPI and, in spite of our devious attempts to knock off their MPI and put up our own MPI—and, indeed, even to move a censure motion—they have stuck to their guns. So with all the outrage and righteous indignation I can muster, I say: I think I must have been wrong—the National Party are fighting back. They were in a state of torpor—in a stupor yesterday—but they are fighting back today, and who have they chosen to lead their counterattack? Is it their great and glorious leader, old Gucci gumboots? No. Is it the genetic mutation from the Anthony species—the one who did such a sensational job of defending the sale of Telstra yesterday? No. Is it the member for wide part? No, it is not him. Is it old red hair and limp wrist from Gippsland? No, no, it is not him.

The DEPUTY SPEAKER—The member for Melbourne!

Mr TANNER—They have sent out Corporal Jones to lead the attack—

The DEPUTY SPEAKER—The member for Melbourne!

Mr TANNER—and the member for Hinkler has hitched his trousers—

The DEPUTY SPEAKER—The member for Melbourne, I will sit you down if you do not take note of the chair!

Mr TANNER—Yes, Mr Deputy Speaker, I am taking note of you.

The DEPUTY SPEAKER—The MPI distinctly says:

> The Government's ongoing commitment to regional telecommunications regardless of the future ownership of Telstra.

I bring you back to the MPI.

Mr TANNER—I am getting to that point, Mr Deputy Speaker.

The DEPUTY SPEAKER—If you don't, I will sit you down.

Mr TANNER—You are not entitled to do that, Mr Deputy Speaker, under the standing orders.

The DEPUTY SPEAKER—I will take advice on it, but I believe I am.

Mr TANNER—I am referring to the honourable member who moved this matter of public importance and my concerns about the National Party's position on these issues, and he is a National Party member. The honourable member for Hinkler, like Corporal Jones, may not pack a great deal of punch—he may get a bit confused from time to time and he may run around in circles a little bit—but he is a decent bloke and he is a fair dinkum National Party member. He is a fair dinkum Nat and he believes in the role of government in delivering infrastructure and services to people in regional Australia. It is just a pity that the party he belongs to no longer believes in that role for government.

In fact, I suspect that at the meeting last night, after the matter of public importance debate yesterday, they had a look around and thought, 'Have we got anybody here who still believes in government having an important role in delivering infrastructure and services for people in country Australia? Hands up anybody here who believes in a role for government?' They looked around and could not see anybody, and the honourable member for Hinkler—who, I suspect, was probably asleep—was elbowed in the ribs by somebody and he stuck his hand up and got the job of coming in here today to defend the sale of Telstra on behalf of the National Party. This was to actually indicate that somewhere, deep down in the bowels of the National Party, there is still somebody who believes that there is some kind of role for government in ensuring that people in country Australia get decent services, get infrastructure and get some kind of service delivery that is vaguely comparable with that for people in the major cities.

The National Party and the government—and perhaps even the member for Hinkler—were probably a bit unhappy with the performance of the minister for community services yesterday in responding to Labor's matter of public importance debate on the sale of Telstra, so they decided they had better have their own today. Good on them, too. They have wheeled out the member for Hinkler to tell people in country Australia why the National Party has betrayed them and why the sale of Telstra would be great for people in country Australia.

I admit that yesterday I was guilty of allowing sentimentality to get in the road of my contribution. I was a bit teary eyed in fact about the National Party and my antecedents. I was a little bit overcome. I say to honourable members on my side of the House that I failed to adequately deal with some of the government arguments in favour of selling Telstra. I did make some mention of them, but I did not devote enough attention to those arguments in my contribution. I thought to-

day, given that I had the opportunity returned by the honourable member for Hinkler, that I could deal with some of those arguments.

We are told by the government that Australia has the most open telecommunications regime in the world and that we have the greatest degree of competition. In support of this argument, they point out that we have 89 licensed telephone companies. I would be interested to know how many of those 89 companies have serious operations in Bundaberg and I would be very interested to know how many of those 89 companies have serious operations in Gladstone—the two major cities in the seat of Hinkler. But what they did not mention, when they referred to the enormous amount of competition, openness and diversity in the telecommunications regime in Australia, is that one of those 89 companies makes 95 per cent of the profit in telecommunications in Australia.

Mr Zahra—Thriving competition!

Mr TANNER—There is enormous, thriving, vibrant competition with 89 different providers, but one of them just happens to make 95 per cent of the profit. That one, which of course is Telstra, also accounts for over two-thirds of the total industry. That is the vibrant, competitive, open telecommunications market the government thinks we have. In fact, what we have is still predominantly a monopoly—Telstra. The government seems to want a private monopoly that will be able to gobble up major media assets too—and I heard today a suggestion that Telstra is actively considering purchasing the Southern Cross group, yet another foray into its ambitions to move its monopoly power in telecommunications across to the media sector. And right here and now, our cross media ownership laws are being debated in the Senate, where the government is seeking to facilitate that to create a media and telecommunications giant privately owned by who knows who that would totally dominate Australia's media and telecommunications sectors.

When there is a challenge to this monopoly power—courtesy of Professor Fels and the ACCC last week suggesting that maybe it is not a great idea to have the telecommunications company that totally controls the fixed line network also control the major cable network, as Telstra does through Foxtel, and that maybe Telstra should be taken out of that—the government does not even think about it, does not even respond and does not even debate the report. It just simply rules out doing anything at all. That is the government's first great argument: we have a great, open, competitive telecommunications regime and it is fine to privatise Telstra.

The government's next argument was that Telstra's shareholders 'faced the uncertainty of having their shares devalued if Telstra remains in government ownership because of the threat of government meddling'. I am absolutely certain that the private shareholders of Telstra are very pleased to know that the government are concerned about their share value being devalued. I am very sure that they are pleased about that. The only problem with it of course is that it has already happened. Their share values have been very seriously devalued. In 1999-2000, or thereabouts, their share values were up around $8 or $9 but, of course, they plummeted. We are led to believe that continued government ownership is a threat to the value of Telstra's shares. Apparently, it was not a threat to the value of those shares several years ago when they were at stellar levels, but it is now going to be a threat.

Of course, that plummeting has nothing to do with the stewardship of the Howard government. It has nothing to do with billions of

dollars of losses on dubious investments in Asia or bungled reform announcements by the minister—he failed to consult Telstra, sending them into a spin and, as a result, their statements caused drops in the share price. It has nothing to do with the minister announcing an inquiry into telecommunications and a possible structural separation of Telstra and then cancelling the inquiry the day before it was due to start. All of these things have nothing to do with the decline in Telstra's share price. In fact, the problem with Telstra's share price has not been government ownership; it has been Howard government ownership. That has been the problem with Telstra's share price. The stewardship of the Howard government, the Treasurer, the finance minister, the minister for communications and the management of Telstra—they are the culprits for the state of Telstra's share price.

The government has also argued that Telstra is disadvantaged by the fact that it cannot issue equity. Because it is a government owned company, it cannot dilute its equity. Perhaps the government is disappointed by the fact that, when the dot.com boom was on, Telstra only lost about $2½ billion in its ill-judged forays into Asia. Perhaps it would have been better if it had done a deal of share swaps between PCCW and Telstra at a time when PCCW's shares were perhaps $30 or $50—whatever they might have reached. Now, they are about 50c. Perhaps that would have been a better approach and a better way for Telstra, and its representation of its shareholders, to do something good for those shareholders. Any respectable Telstra shareholder will be thanking their lucky stars that Telstra management did not get the freedom to bet the company in Asia in the dot.com boom; all they got was the freedom to bet the cash flow—and they bet an awful lot of cash flow and they lost an awful lot of cash flow. Telstra shares would be a lot lower today than they otherwise are—they would be a lot lower than $4.40, which they currently are.

I notice that the government's arguments predominantly seem to focus on the interests of Telstra's shareholders. It is entirely proper that this parliament should consider the interests of Telstra's shareholders in determining whether or not to privatise Telstra. They are an important factor in the debate. I would be concerned, too, if I were a Telstra shareholder—but of course I am not. I would be particularly concerned if I had bought shares at $7.40 and they were now down to $4.40. But, unfortunately, these arguments ignore the interests of a larger group: Telstra's customers—which is everybody; in particular, Telstra's customers in regional Australia and lower income customers. It is not difficult to see what will happen when Telstra is privatised, because we are seeing it unfold already. There are fewer workers fixing problems, fixing faults and maintaining the network; less investment in the network—that has dropped by $1.3 billion within the space of three or four years; and higher prices for line rentals. It has been the limited amount of competition that we have had and the technological change that have driven some price reductions, but tell that to the people who are paying higher line rental fees. They are paying through the nose just for the privilege of having a telephone in their home. We are seeing declining service standards, declining maintenance standards and a monopoly Australian outfit using the cash flow generated by its Australian operations to lose billions on dubious investments in Asia.

The end result is going to be a giant private monopoly, too powerful for any government to effectively regulate, focused on the bigger city markets where the lucrative

outcomes are to be made—a company that will leave town faster than the banks. When I was in a country town not so long ago, somebody said to me, 'Do you know where Bendigo Bank is going to set up?' The answer was: in the empty Telstra office—the office that Telstra used to occupy. That is going to be the story all around regional Australia—with services, with activities, with maintenance, with workers—for Telstra as a privatised entity. No amount of licence conditions or so-called future-proofing is going to change the fact that Telstra, once it is privately owned, will be running its own agenda, which will be about dollars, not about community obligations.

The last thing that we have seen as evidence of where a privatised Telstra will head is the early stages of the dubious corporate behaviour that has become so redolent of the big end of town in Australia: Telstra management providing free luxury plasma TVs to the Prime Minister and to the communications minister so that they could spend months watching the World Cup and the football in the quietness of their own homes; and the Chief Executive of Telstra, Ziggy Switkawski, speaking at a Peter Costello fundraiser—a Treasurer's fundraiser—and organising a nice, cosy little deal for himself that, if he gets sacked for poor performance, he gets a bonus of $1 million. These are the symptoms that are already emerging of what a privatised Telstra would be like.

The government is right to focus on the implications for shareholders: of a privatisation of Telstra—it is right to focus on the implications for shareholders—but it is ignoring the implications for the majority shareholders, the Australian people. It is they who ultimately matter most, and the government is ignoring the implications for them.

The National Party has abandoned its origins. It has abandoned the people whom it is supposed to represent—people in regional Australia, many of them low-income earners. It sold them out. It sold them out to the moleskins—the R. M. Williams brigade—and it will die as a result. The National Party is on the verge of becoming a wholly owned subsidiary of the Liberal Party. The National Party is now a shell. It is a crumbling hulk just waiting to be put out of its misery. They in the National Party signed up to selling Telstra—and their constituents will exact a price as a result of that. They should hang their heads in shame, and they should not have the gall to come into this House to even own up to the position that they have adopted. *(Time expired)*

The DEPUTY SPEAKER (Hon. I.R. Causley)—Before I call the Minister for Regional Services, Territories and Local Government, I advise the member for Melbourne that it might be instructive for him to read standing orders 81, 85 and 228.

Mr TUCKEY (O'Connor—Minister for Regional Services, Territories and Local Government) (4.40 p.m.)—To the best of my knowledge, the shadow minister for communications, the member for Melbourne, has a legal background. He has just made a complete speech made up of personal attacks—when one would have thought that 15 minutes was barely enough to put a case on behalf of his party for the future of Telstra—and he used five minutes to come out with funny answers he had written before he came into the place, which was hardly constructive.

As a lawyer and as a spokesman for the Labor Party, it would not have been a bad idea for him to have taken into account the Corporations Law and, more particularly, sections such as 233A through to about E, which clearly lay down the responsibility of

directors and the responsibility of majority shareholders. Majority shareholders, in particular, are very constrained in the sort of influence they can exert upon the board of directors—particularly if that action in any way is deleterious to members as a whole or to minority shareholders. Those opposite giggle about company law, because they do not understand it, but it is a fact of life that the owner of a large quantity of shares in any company who seeks, for instance, in this case, to tell Telstra to lower its prices and to invest in unprofitable services, can be shown the door.

If anyone wants to know what the Labor Party used to think about that, I can quote from Ralph Willis, the then member for Gellibrand, when he introduced, of all things, the Commonwealth Bank Sale Bill 1995. That, of course, was a bill to sell the other half of the Commonwealth Bank, when the Labor government of the day had said in a prospectus that sales would never exceed 19 per cent—which was probably a breach of company law—and then later said that it would never go past 49 per cent. They even wrote a letter to the poor old bank officers' union giving them that undertaking. In announcing that policy, Ralph Willis said:

> Despite being the majority shareholder, it has been the government's—

that is, the Labor government—

> longstanding policy not to interfere in the commercial operations of the Commonwealth Bank.

Now we have the spokesman for the Labor Party shrugging off that principle laid down by Ralph Willis on behalf of a government, not an opposition. Please remember that we are talking today on the principle so frequently espoused by Labor: 'Don't do as I do, do as I say.' That fact is that we have had a lawyer saying, 'Company law doesn't matter. We as a government would ignore company law and the rights of minority shareholders as we exercised our policy.'

That not only is in contravention of company law—written in this House—but also is not going to save the smaller shareholder, and it is not necessary. There is power available to the government to regulate; to put conditions on licences. While the member for Melbourne tells us that no-one would be game to do it, we have done it—and, what is more, we will do more of it as is necessary.

Of course there is another attitude on the other side of the House. They stand up in this place, including the Independents, and tell us the hard luck stories of their constituents who have waited a month, two months, six months for some service related to Telstra. That is not the fault of Telstra; that is the fault of the member who fails their constituents in getting these matters fixed.

Mr Sidebottom—Rubbish. You've got the perfect set-up, have you, Wilson?

Mr TUCKEY—No, you are admitting it. Nobody in my electorate, when I was a member in opposition, waited those times. We would not accept Telstra's excuses. We used to put ads in the paper saying, 'If you've got problem, contact my office,' and it would be fixed within the regulated time. Members who think that there is more advantage for them in making sure it does not happen, who do not want it to happen and who are much happier coming into this place and telling their story, naming some person—who would probably prefer their privacy to be protected—are failures. That is all you are, as members of parliament, if you lack the capacity to keep your constituents' phones working.

Mr Deputy Speaker, let me give those here who think they are going to surf into government on the sale of Telstra a little bit of

advice about winning elections. In the last election we had the pledge; we had it signed and witnessed all over Australia. In my electorate—and I table this media coverage—

The DEPUTY SPEAKER (Hon. I.R. Causley)—You will have to seek leave to table that.

Mr TUCKEY—I did not think ministers had to, but I am quite happy to seek leave.

Leave granted.

Mr TUCKEY—It just says, 'Tuckey pushes total Telstra sell-up'. It was published in probably the biggest newspaper in my electorate, the *Geraldton Guardian*, on 19 February—nine months before the election. I opened the Country Wide office and I told my electorate that we should sell the rest of Telstra as soon as possible. The Labor Party's endorsed candidate ran out, signed the pledge and ran around day after day after day on this issue. What was the outcome? My vote went up two per cent, in a sensitive area. Why did that happen, amongst other things? The very simple fact is that my electorate knew where I stood and they did not believe the Labor Party. They have seen their record: don't do as I do; do as I say. They sold everything off in government, spent the money, borrowed heaps more and, of course, gave the people no protection whatsoever. The Commonwealth Bank is a classic example. I also table Mr Willis's speech, who was Treasurer at that time, when he put the case of all the reasons why Labor should break another promise.

Furthermore, there are other issues and there is the history of the services of Telstra. I have been 50 years a resident of remote areas and servicing a rural constituency in this House. In the first hotel that I operated as a 21-year-old, it was one pound a minute for a long-distance call and about a shilling for a beer, and you can make that relative today. Prices have gone down and services have gone up. I had a phone call not that long ago from a good and friendly constituent who said, 'Wilson, you can't sell the rest of Telstra. Service is not like it used to be in the old days.' And I said, 'Mate, in the old days you didn't have a phone!' He had nothing to complain about, and in fact after he complained he realised how silly it was. We discussed the fact that in 1982, as I recollect, he was being asked for $6,000 by Telecom—that wonderful totally government owned and operated institution—to connect his phone. That is what I represented him on in those days. I chuckle with my constituents, because they used to have nothing to complain about when I was first elected because they did not have a phone. Now they have got four things to complain about: when the fax does not work, the phone does not work, the Internet does not work or the mobile phone does not work. But nearly all the time they do, and since establishment of Country Wide the service complaints that we receive in my office are down to nearly nil. And half the time one wonders if the Labor Party does not run around cutting a few wires so that it can make a complaint.

The USO is well-established, it works, and when my office makes representations to Telstra we do not do it on the basis of being a majority shareholder on behalf of the Australian government. We put the regulatory arrangements before them and we make it very clear that we expect them to be complied with—and they are. If anybody thinks that they cannot achieve that, it is time they left their seat to somebody else. There is plenty of evidence that Telstra cannot do any more for people when it is sold, and the arguments from the member for Melbourne were particularly ridiculous. The Labor Party are so used to being pushed around by trade unions

that they would not have the guts to regulate and they did not regulate the Commonwealth Bank. *(Time expired)*

Ms O'BYRNE (Bass) (4.50 p.m.)—I must say in response to the comments of the Minister for Regional Services, Territories and Local Government today that I actually felt as if I was in a *Monty Python* sketch. I was waiting for him to suggest at any moment that he used to get up half an hour before he went to bed and 'lick t'road clean with tongue', but we will keep going anyway.

Australians everywhere, and most particularly those living in regional Australia—and, Minister, there are people on this side who live in regional Australia, not Perth—well know that the full privatisation of Telstra will do nothing for their chances of keeping up with future improvements in telecommunications in the decades ahead. The full privatisation of Telstra will be a disaster for Australia and most particularly for the regions. It will be a disaster because it means that one of the most important pieces of public infrastructure—our telecommunications system—will be in private control. Investment in this infrastructure in the future will not be a matter of advancing the public good. It will be about delivering the greatest profits to shareholders, and we all know where shareholding lies: it lies in the big capital cities. If this was not the case, why did the federal government have to spend $1.2 billion since 1997 making sure that Telstra did what it was supposed to do: keep investing in regional telecommunications? The fact is that ever since the government put Telstra in its so-called 'half pregnant' state of partial privatisation—something the government did not regard as a problem at the time but which apparently is now a huge issue to resolve—Telstra has been forced to go back to the regions.

Miss Jackie Kelly interjecting—

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! We do not want a discussion across the table, thank you. The member for Bass has the call.

Ms O'BYRNE—Thank you for your assistance, Mr Deputy Speaker. Telstra saw being let off the fully-public hook through part-privatisation as the green light to abandon the regions. They just packed up shop and left. This is the year 2003, and the people of my electorate, whether they are on Flinders Island, Gladstone, Low Head or the heart of Launceston, have a right to expect some things.

Mr Sidebottom—And in mine.

Ms O'BYRNE—Certainly, in the member for Braddon's electorate and in all of our regional areas, they have the right to expect a telecommunications infrastructure that is modern and in good working order. They have the right to expect a properly staffed and funded maintenance program for that infrastructure to ensure that it remains reliable and in good working order. They have the right to expect a properly staffed and funded response program that will provide for timely attention to reported faults, particularly the urgent cases. They have a right to expect mobile phone coverage across the electorate—certainly, within inhabited areas and on regularly traversed roads. They have the right to expect reliable access within in all inhabited locales to all standard modern-day services—phone, fax and Internet.

This is currently far from the case in my own electorate, where towns that are only a stone's throw away from Launceston—one of Australia's larger regional cities—do not have access to basic services. I refer to towns such Hillwood, Nunamara and Legana, which do not have reliable services—or, in some areas, have no services. I refer to the fact that there is no continuous mobile phone

service between Launceston and George Town, the largest town in my electorate. There is no continuous service on either of the routes between Launceston and the second-largest town, Scottsdale. It was not until the federal government decided a few years ago that they wanted to sell off the remaining public shareholding in Telstra that they realised they had a big problem and had to do something fast about improving telecommunication services. They found out that regional Australians were pretty unhappy about being abandoned, just like that, by Telstra.

The divide between the cities and the regions was big, and getting bigger by the day. Regional Australians had fallen way behind their big-city cousins. They are still a long way from catching up, despite all the government's rhetoric today and yesterday. The point is that this attempted catch-up would never have even started without massive government intervention. Only the majority government ownership has the capacity to get Telstra to act in the national interest, not just in the interests of shareholders. If the government sells off the public shareholdings in Telstra, does anyone for one minute think that any government regulation will be tough enough to force such a huge private monopoly to put the interests of regional Australia before delivering profits to shareholders? If the government believes that there are private companies that already do that, it should tell us who they are because we cannot work them out.

Even with the government's much touted customer service guarantee, which is supposed to be the be-all and end-all of world's best practice of consumer protection, there are huge problems that Telstra is only too willing to exploit. For example, the customer service guarantee has an enormous loophole that allows Telstra to self-declare an exemption to the regulatory regime. That loophole enables Telstra to not fix faulty phones or install new services within the prescribed time frames. It does not even have to pay any compensation to those people whom it fails with that service.

The loophole is the mass service disruption notice. It is a self-declared exemption from the customer service guarantee with very little scrutiny. The regulator is supposed to oversee this, but the Australian Communications Authority, which is just another one of the federal government's toothless tigers in regulation, is happy to just sit by and let Telstra exploit this loophole. In the meantime, people do not get their phones fixed on time, they do not get their new services installed on time and they do not get any compensation. This has happened to 18,672 customers in the last year alone. As it currently stands, the customer service guarantee is not delivering adequate service levels to consumers that the government promised. Otherwise, why would the ACA consumer satisfaction survey 2002 show record high levels of dissatisfaction with fault repair, in particular, which are the highest recorded since the survey began in 1998? This is the system that the government says is going to bring a fully privatised Telstra to heel.

Now we have the National Party staking its entire credibility and reputation as a 'voice in Canberra for the regions' on a paltry $181 million package to future-proof regional Australia for all the years to come. Telecommunications expert Paul Budde has estimated the cost of future-proofing at $5 billion over the next five years. Yet the Nationals are willing to sell out the regions for the princely sum of $181 million. Given that the government anticipates getting around $30 billion from the proceeds of full privatisation, you would have to say that the Na-

tionals have been sold a pup on this one. It will be interesting to see them go back to their electorates now and explain how this $181 million is going to go around and fix all of the problems that remain and provide all of the new technology in the future. Perhaps it is going to be a bit of a loaves and fishes type of story, because you would have to believe in miracles to believe this one.

We have had the much touted Estens report and, seven months later, this indication of the government's response: $181 million to get Telstra to do what should be its job in the first place. We know what a whitewash the Estens inquiry was. It did not even hold public hearings, because they were too afraid of what they might hear. The fact is that there are many problems in the telecommunications network. These problems are the result of underinvestment by Telstra in network maintenance and repair, and of the savage job cuts that Telstra has been relentlessly pursuing in an attempt to generate revenue growth and get the share price up.

The existing problems in the network are not trivial. They are huge problems with infrastructure, which will cost hundreds of millions of dollars over many years to fix. These problems with the network are the first obstacle to one of the key requirements of all customers—a reliable telephone service. That is something regional Australia has a right to expect. Despite all of this government's rhetoric, customers do not yet have this. Their telephone service is still the victim of inferior pair gains technology, faulty cables that need to be propped up with gas bottles, and cables that are badly corroded by Telstra's failed 'seal the can' program. Indeed, even Telstra's basic maintenance work, which is recorded in its CNI database, has been completely glossed over. We are talking about more than 110,000 maintenance tasks, most of which have never been done and thousands of which are affecting customer service.

At present Telstra is engaged in savage job cuts in order to help get the Telstra share price up to a level that will give the green light to this government for flogging off the rest of their shareholding. This means that around 2,800 communications technicians have lost their jobs in the past year. Another 3,000 job cuts are to come in the next financial year. If you work on the theory—which is true—that each technician does about four fault repairs or new service installation jobs each working day, these job cuts mean that there will be 12,000 fewer fault repair and installation jobs done each day across Australia; 60,000 fewer each week; more than three million fewer each year; and, by the end of June next, six million fewer. Telstra cannot claim to be able to provide decent services to Australians while it massively slashes staff like this. It just does not add up.

Telstra continues to slash jobs, despite the fact that Telstra workers can barely keep up with the day-to-day repair and installation work. Even market analysts quoted in the *Australian Financial Review* on 21 May have questioned Telstra's ability to make more job cuts. They say:

> Telstra is now at industry best practice—15 per cent labour costs to sales—so you could argue the easy [labour cost] gains have already been made.

In that same article analysts also said that Telstra had to be wary of damaging its business by pursuing job cuts, because they will lead to problems down the track.

The critical point about these Telstra job cuts is that they are all about fattening Telstra up for full privatisation, not about delivering outcomes. If this matter is so important to the National Party, let them stand up and be counted. Let us divide this House and see if

they are able to stand in a house of parliament and walk the walk. We have seen the member for Riverina out there in the media talking the talk, but let the member and her National Party mates walk the walk in this House and vote to declare their views on the privatisation of Telstra. I move:

That so much of the standing and sessional orders be suspended as would prevent the terms of the matter of public importance, namely "The Government's ongoing commitment to regional telecommunications regardless of the future ownership of Telstra", being proposed from the Chair as a question for determination by the House, so that Members may indicate in the subsequent division their individual position in relation to the proposed full privatisation of Telstra.

The DEPUTY SPEAKER (Hon. I.R. Causley)—Is the motion seconded?

Mr TANNER (Melbourne) (5.00 p.m.)—I second the motion. As I indicated previously, the National Party have dogged this issue. They have spent years saying to the constituents in their electorates that they would not betray them on the question of Telstra privatisation. They have spent years telling people in country Australia that they would stand firm against their city cousins, the Liberals, on the question of Telstra privatisation. Finally, as we on the Labor side predicted, when the crunch has come, the National Party members have betrayed their constituency in regional Australia. They have let down the greats of the National Party past—

Mr Zahra—Like Peter Nixon.

Mr TANNER—like Peter Nixon, who were prepared—as I indicated earlier on in debate—to stand up to the Liberal Party even to the point of vetoing a Liberal choice for Prime Minister. In the late 1960s the National Party was strong enough and gutsy enough not only to veto things like a revaluation of the Australian dollar but also to stand up to the Liberal Party and refuse to accept Billy McMahon as Prime Minister. And thank God for Australia that they did! Although perhaps, if they had done it completely, the Labor Party may not have been quite as successful as it was in the 1972 election. But thank goodness for Australia that they did.

The modern National Party is but a shell. It is but a bare, pale reflection of a once great and strong party. On this issue it has failed its constituency dismally. The National Party now is simply a wholly-owned subsidiary of the Liberal Party that is dancing to the Liberal Party tune. On the one issue on which you will get almost total unanimity in country Australia—namely, the sale of Telstra; the one issue that really desperately matters throughout rural and regional Australia—the National Party is betraying its constituents.

Miss JACKIE KELLY (Lindsay—Parliamentary Secretary to the Prime Minister) (5.02 p.m.)—I move:

That the member be not further heard.

Question negatived.

Mr TANNER—The National Party has failed its constituents in regional Australia. It has caved in to the Liberal Party. It has failed to stand up to them on this issue. Country people need telecommunications services in order to go about their normal business—in order to exist. People in the city take these things for granted, but people in regional Australia know that, if Telstra is privatised, it will leave town faster than the banks. You will see empty Telstra offices and the ghosts of former Telstra workers who used to fix and maintain the network. As a private company Telstra will not be able to continue to sustain its community obligations, because its private shareholders will not allow it to do so.

Under the Howard government, Telstra has been acting already as though it were a pri-

vate company. It is acting as though it were already privatised, because that is the regime that the Howard government is allowing to apply. So it is losing billions of dollars in dubious investments in Asia; it is putting up its line rental fees massively, to the great disadvantage of many lower income families, particularly in regional Australia; and it is allowing its network to deteriorate and, at the same time, failing to roll out broadband services accessible not only in regional Australia but also even in suburban Australia.

I have had quite a number of emails and letters over the last day or two from people saying, 'What about the outer suburbs?' Yes, the government has a small, drop-in-the-ocean program to extend broadband to people in the bush: what about broadband in the outer suburbs? Telstra is failing there, too. I went to the City of Wanneroo in the outskirts of Perth last month, and they told me that they cannot get Telstra to extend ADSL broadband to most of the exchanges in their area. That means that they cannot attract small businesses to help with economic growth in one of the most rapidly growing parts of Australia. So, under this government, Telstra is failing not only in regional Australia but also in suburban Australia. The National Party should be ashamed of itself. It has failed to live up to its promise to its constituencies. The individual members of the National Party who were elected by their constituents on a platform opposing the sale of Telstra should come in here and stand up for themselves.

Original question put:

That the motion (**Ms O'Byrne's**) be agreed to.

The House divided. [5.09 p.m.]

(The Deputy Speaker—Hon. I.R. Causley)

Ayes……	64
Noes……	72
Majority……	8

AYES

Adams, D.G.H.	Albanese, A.N.
Andren, P.J.	Beazley, K.C.
Bevis, A.R.	Brereton, L.J.
Burke, A.E.	Byrne, A.M.
Corcoran, A.K.	Cox, D.A.
Crean, S.F.	Crosio, J.A.
Danby, M. *	Edwards, G.J.
Ellis, A.L.	Emerson, C.A.
Evans, M.J.	Ferguson, L.D.T.
Ferguson, M.J.	Fitzgibbon, J.A.
George, J.	Gibbons, S.W.
Gillard, J.E.	Grierson, S.J.
Griffin, A.P.	Hall, J.G.
Hatton, M.J.	Hoare, K.J.
Irwin, J.	Jackson, S.M.
Jenkins, H.A.	Kerr, D.J.C.
King, C.F.	Latham, M.W.
Livermore, K.F.	Macklin, J.L.
McClelland, R.B.	McFarlane, J.S.
McLeay, L.B.	McMullan, R.F.
Melham, D.	Mossfield, F.W.
Murphy, J. P.	O'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.
Smith, S.F.	Snowdon, W.E.
Swan, W.M.	Tanner, L.
Thomson, K.J.	Vamvakinou, M.
Wilkie, K.	Zahra, C.J.

NOES

Abbott, A.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.
Cadman, A.G.	Cameron, R.A.
Charles, R.E.	Ciobo, S.M.
Cobb, J.K.	Draper, P.
Dutton, P.C.	Elson, K.S.
Entsch, W.G.	Farmer, P.F.
Forrest, J.A. *	Gallus, C.A.
Gambaro, T.	Gash, J.
Georgiou, P.	Haase, B.W.

Hardgrave, G.D.	Hartsuyker, L.
Hawker, D.P.M.	Hockey, J.B.
Hull, K.E.	Hunt, G.A.
Johnson, M.A.	Jull, D.F.
Kelly, D.M.	Kelly, J.M.
Kemp, D.A.	King, P.E.
Ley, S.P.	Lindsay, P.J.
Lloyd, J.E.	May, M.A.
McArthur, S. *	Moylan, J. E.
Nairn, G. R.	Nelson, B.J.
Neville, P.C.	Panopoulos, S.
Pearce, C.J.	Prosser, G.D.
Pyne, C.	Randall, D.J.
Ruddock, P.M.	Schultz, A.
Scott, B.C.	Secker, P.D.
Slipper, P.N.	Smith, A.D.H.
Somlyay, A.M.	Southcott, A.J.
Stone, S.N.	Thompson, C.P.
Ticehurst, K.V.	Tollner, D.W.
Truss, W.E.	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.

BUSINESS

Miss JACKIE KELLY (Lindsay—Parliamentary Secretary to the Prime Minister) (5.14 p.m.)—I would like to inform the House of the sitting arrangements for dinner tonight. The House will suspend at 6.30 p.m. and resume at 8.30 p.m.

CIVIL AVIATION LEGISLATION AMENDMENT BILL 2003

Report from Main Committee

Bill returned from Main Committee without amendment; certified copy of the bill presented.

Ordered that this bill be considered forthwith.

Bill agreed to.

Third Reading

Miss JACKIE KELLY (Lindsay—Parliamentary Secretary to the Prime Minister) (5.16 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

EXPORT CONTROL AMENDMENT BILL 2003

Report from Main Committee

Bill returned from Main Committee without amendment; certified copy of the bill presented.

Ordered that this bill be considered forthwith.

Bill agreed to.

Third Reading

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (5.16 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

PARLIAMENTARY ZONE

Approval of Proposal

The DEPUTY SPEAKER (Hon. I.R. Causley)—I have received messages from the Senate transmitting resolutions agreed to by the Senate approving the proposals by the National Capital Authority for capital works within the parliamentary zone, being landscape and lighting works at the Treasury building and the design for the Commonwealth Place forecourt.

COMMITTEES

Corporations and Financial Services Committee

Report

Mr GRIFFIN (Bruce) (5.17 p.m.)—On behalf of the Parliamentary Joint Committee on Corporations and Financial Services, I present the committee's report, incorporating a dissenting report, on the inquiry into regulation 7.1.29 in Corporations Amendment Regulations 2003 (No. 3), Statutory Rules 2003 No. 85, together with evidence received by the committee.

Ordered that the report be printed.

Mr GRIFFIN—by leave—I would like to make a few comments on the dissenting report to the committee report. The Labor members of the committee support the objectives of the FSR Act and are keen to ensure that the government monitors implementation of the act and the related regulations. Accordingly, the Labor members recommend a review of the FSR regime post implementation in 2004.

During the hearing, a number of arguments were advanced to support a further exemption from the FSR Act for accountants recommending a superannuation structure to their clients, on the basis that such advice is not investment advice. In our view, that is not a good idea. Choosing to set up a self-managed super fund entails an investment decision. Once the decision is made to set up a self-managed super fund, generally the decision to direct funds into that fund is made. Labor members believe that recommending one superannuation structure over another constitutes an investment decision. It is not an ordinary investment decision; it is one that has the potential to impact on a consumer's retirement and future economic wellbeing. Accordingly, consumers are entitled to the protection afforded by the FSR Act in relation to such a decision.

In light of these issues and the overriding objective of the legislation to protect the interests of consumers, the Labor members do not support the committee's recommendations. The committee's recommendation that the regulation should be amended to exempt accountants from the FSR Act for recommendations in relation to superannuation fund structures is therefore not supported, nor are the recommendations for broader carve-outs for accountants. Other than that, I commend the report to the House.

DELEGATION REPORTS

Asia-Pacific Parliamentary Forum

Mr SERCOMBE (Maribyrnong) (5.20 p.m.)—I present the report of the Australian parliamentary delegation to the 11th annual meeting of the Asia-Pacific Parliamentary Forum held in Kuala Lumpur, Malaysia, from 13 to 16 January 2003 and seek leave to make a short statement in connection with the report.

Leave granted.

Mr SERCOMBE—The Asia-Pacific Parliamentary Forum—or the APPF, as it is known—is an organisation which each January brings together members of parliaments from throughout the Asia-Pacific region. Parliamentarians discuss matters of mutual interest and adopt formal resolutions. Australia has been an active participant in the forum since it was established in 1993, and many members and senators have now attended the annual meetings.

The subject matter of the APPF is wide ranging, covering strategic economic, environmental and sociocultural aspects of our foreign relations. The forum provides an important opportunity for Australian parliamentarians to press Australian interests. This is

done formally through our draft resolutions, through negotiations to achieve consolidated resolutions with other delegations, in presentations in the plenary session and during bilateral meetings with other delegations. We have the opportunity to ensure that other parliamentarians in our region understand Australian policies and priorities through the informal occasions which arise throughout the meeting. We also have the opportunity to draw to the attention of other delegations that within the Australian democratic framework there will often be a diversity of views about particular issues that the conference is dealing with.

The delegation to the 11th annual meeting continued the productive work of previous delegations. The delegation worked well together as an effective team and I believe represented Australian interests well. Highlights of the meeting included our substantial contributions to four of the agreed resolutions of the meeting. These covered terrorism, trade agreements and the World Trade Organisation, people-smuggling and environmental and developmental issues. As the first APPF meeting following the Bali tragedy which so greatly affected the region in which the meeting was held, the issue of terrorism was more than just an important agenda item. It permeated all aspects of the meeting directly and indirectly.

The Australian delegation enjoyed two significant and successful bilateral meetings with the Indonesian and Malaysian delegations respectively. At these meetings, issues such as the welfare of regional students in Australia, the role of the media, travel advisories and other sensitive issues were discussed in a positive way to the benefit of both delegations. Again, organisational issues, including an ongoing secretariat, were raised and a detailed report by the Japanese delegation on proposals for structural change to the forum was circulated. Member countries were asked to respond to the proposals in this report by August. The report being tabled today includes advice to the presiding officers on an Australian response to the proposals put forward by Japan.

The delegation wishes to thank the organisers of the meeting, especially the presiding officers of the Malaysian parliament and their staff, who did an excellent job of organising the conference. We also thank those who supported the delegation in practical and policy advice matters. These included staff from the Parliamentary Library and DFAT, who I thank for their assistance with drafting resolutions and with briefing materials. While in Kuala Lumpur the delegation was assisted by the then Acting High Commissioner, Mr Nick Brown. Our thanks go to Mr Damien Miller from the High Commission, who attended throughout the conference as adviser. We also thank Mr Peter Hill from the Australian Federal Police, who accompanied the delegation. Ms Brenda Herd from the Parliamentary Relations Office was characteristically efficient and helpful and we thank her also.

Finally, I thank my fellow delegates—Senator Ferris, the delegation leader; the member for Cook; and the member for Stirling—and the delegation secretary, Ms Judy Middlebrook, who was her usual efficient self in relation to these matters. She obviously plays a very important role within this forum and is widely respected by other delegations. I thank the delegation secretary for making this another successful Australian contribution to the APPF.

Ms JANN McFARLANE (Stirling) (5.24 p.m.)—by leave—I would like to add my comments to those of the member for Maribyrnong in presenting the report of the Parliamentary Delegation to the 11th Annual

Meeting of the Asia-Pacific Parliamentary Forum. I would like to build on his words, particularly in relation to how the delegation conducted itself. It was a tribute to bipartisanship that the four members of the delegation worked so extremely well together and so very productively. With many a long hour spent in the drafting room, there was a fair and equitable distribution of the time spent by each of the members on helping frame and progress motions.

It is forums like this that give Australia a place in the Asia-Pacific region. We have responsibilities there and, as the member for Maribyrnong said, post the Bali tragedy the issues of terrorism and the strengthening of democracy and ties in the region were very much to the forefront. It was an excellent experience for me and it has given me a greater interest in working in the international forums to progress things that would benefit Australia in social policy, in trade and in economic development.

I also commend the secretariat and Judy Middlebrook, whose major strength was that she has been the delegation secretary to all of the Asia-Pacific Parliamentary Forum meetings. Her knowledge of history and her understanding of the different complexities and sensitivities were most useful to us when we were in the drafting room trying to come to resolutions with other countries. I express my great admiration for President Nakasone and wish him a long and productive role in the Asia-Pacific Parliamentary Forum. He has become one of my role models as a man who can progress things, minimise conflict and get people to reach resolution.

I also thank the staff of the High Commission: Mr Nick Brown, the Acting High Commissioner; Mr Damien Miller, who attended the conference as adviser; and Jikon Lai, who assisted on a personal level in arranging transport. I particularly thank Mr Peter Hill, who was most useful in giving us a practical understanding of how we must be mindful of our own personal security at these events.

I thank the parliament for this opportunity. I thank the delegation leader, Senator Ferris—she was a great delegation leader—and my colleagues the member for Maribyrnong and the member for Cook, who were also very generous in sharing their time and expertise.

Mr SERCOMBE (Maribyrnong) (5.27 p.m.)—I move:

That the House take note of the report.

I seek leave to continue my remarks when the debate is resumed.

Leave granted; debate adjourned.

Delegation to Nigeria and South Africa from 27 October to 8 November 2002

Ms ELLIS (Canberra) (5.28 p.m.)—by leave—I present the report of the Australian Parliamentary Delegation to Nigeria and South Africa from 27 October to 8 November 2002 and seek leave to make a short statement in connection with the report.

Leave granted.

Ms ELLIS—I am very grateful to have the opportunity to make a few comments. I acknowledge the presence in the chamber of the member for Canning, who was a member of that delegation.

It is 20 years since an Australian parliamentary delegation visited Nigeria and we were very keen to establish links with the National Assembly and to meet with members of that assembly. Topics covered were many and varied and the report goes into some detail on those meetings. Our visit program was very busy and included meetings with members of parliament and government

and non-government bodies and organisations, all giving us a broad view into the achievements of Nigeria and the many challenges that Nigeria still faces.

This year saw the Nigerian federal elections, with the return of the Obasanjo government. While we acknowledge the elections attracted some controversy, and sadly some bloodshed, we note that Nigeria have still been able to continue moving positively towards the democracy they so want without military rule becoming dominant in the country. We as a delegation applaud that. This year also sees Nigeria host the All Africa Games in October and CHOGM in December, two very big challenges that we were able to discuss with them in detail in addition to the elections I have referred to.

We were also fortunate to have the opportunity to travel out of the national capital, Abuja, to Kaduna several hours to the north. This provided the delegation with a wonderful opportunity to see Nigeria outside the national capital. It is appropriate that we put on record our thanks to our hosts for arranging that trip.

The second part of the delegation's journey took us to South Africa with an equally busy program, with meetings with and visits to members of parliament, government and non-government bodies and organisations and AusAID projects. I recall the years of struggle against the apartheid rule of the past, the support this country offered to that cause and, particularly, the pictures transmitted around the world when we saw the rainbow nation emerge from that history. We were able to discuss South Africa's development of a new constitution—which our delegation leader often referred to as a new constitution starting with a blank piece of paper. They are negotiating and working through differences and difficulties, all working towards this new and exciting democracy. Many challenges are still to be faced, and we can have nothing but confidence in the South African future—as we were able to experience with our visit to this country.

Some members of the delegation were able to visit an AusAID project in the township of Botshabelo, which was outside Bloemfontein. Through AusAID, there is a $3 million, three-year South Africa Addressing Gender Violence Fund, designed to give grants to South African NGOs to combat gender violence through the expertise, experience and networks of relevant community organisations. The Planned Parenthood Association of South Africa runs such a program at Botshabelo. This was a wonderful example of well-spent aid money. We were very moved to hear the personal experiences of those people involved in this PPASA program.

Africa is a vitally important region in the world, and these two countries play significant roles in the development of their region. Time does not allow me to go into many of the details of the delegation visit, but I urge those interested members of this place to read this delegation report with great interest given, particularly in the Nigerian case, it has taken 20 years for another delegation to visit there.

On behalf of my colleagues, I thank the South African parliament and the Nigerian National Assembly for hosting the visits to the two countries concerned. I also thank his Excellency Robert Whitty, the Australian High Commissioner in Nigeria, and his staff, Wendy Roberts and Sanchi Davis, and also his Excellency Mr Ian Wilcock, the Australian High Commissioner in South Africa, along with Mr Brian Garrington and Mr Bala Chetter from his staff for their wonderful support and help during the whole of our pro-

program. Our thanks also go to Anne Mackinnon of the Department of the House of Representatives, who was the secretary to our delegation. I put on record my personal thanks to Senator John Tierney, the leader of the delegation; the member for Canning, Don Randall; the member for Braddon, Sid Sidebottom; Senator Natasha Stott Despoja; and the member for Barker, Mr Patrick Secker. They all took part in what I believe was a very successful and worthwhile delegation on behalf of this parliament.

AUSTRALIAN FILM COMMISSION AMENDMENT BILL 2003

Consideration of Senate Message

Bill returned from the Senate with an amendment.

Ordered that the amendment be considered forthwith.

Senate's amendment—

(1) Schedule 1, item 11, page 5 (after line 6), after subsection 6(5), add:

(6) The annual report of the Commission under section 9 of the C*ommonwealth Authorities and Companies Act 1997*, in respect of a financial year, must include a report of the operations relating to the national collection.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (5.34 p.m.)—I move:

That the amendment be agreed to.

The Australian Film Commission Amendment Bill 2003 will implement the decision announced in the budget to integrate the Australian Film Commission and ScreenSound Australia—the National Film and Sound Archive. The bill importantly gives the AFC a specific statutory mandate to develop, preserve, maintain and make available the national collection of screen and sound material.

The integration of the two agencies will provide real benefits and opportunities for both organisations, improving the strength and influence of the organisations and enabling expansion of the scope and focus of national screen culture activities. Combining ScreenSound's extensive audiovisual collection with the AFC's ability to support national exhibition programs will ensure that more Australians than ever, particularly in regional areas, will be able to enjoy ScreenSound's unique resources.

The National Film and Sound Archive will not lose its identity as a result of this integration. The archive has an important place among our national cultural institutions as the repository of the important national collection of audiovisual material. It will retain distinct branding in its trading name, and head of the archive will be a clearly identified position within the AFC.

The bill passed by this House this week was today amended in the other place to include a provision requiring the AFC's annual report to include a report of the operations relating to the national collection. The government supports the amendment, which provides reassurance that the national collection of screen and sound material will be an important part of the activities of the AFC. On that basis, I commend the amendment to the House.

Mr McMULLAN (Fraser) (5.36 p.m.)—I will be very brief because this is an agreed amendment to an agreed bill. So I do not think we really need to go on at length. There is a body of points that need to be put on the record, briefly, about the Australian Film Commission Amendment Bill 2003 and the amendment. I will not go back over all the debate we had originally over the bill, which we supported but about which I, on behalf of the opposition, expressed some serious reser-

vations. I still remain unconvinced that we need to do this amalgamation but it is inevitable and it has some positive elements to it. The Film Commission and, more particularly, the Film and Sound Archive need some certainty going forward. As I said, I remain unconvinced that this is the best way to go forward but it will achieve that important purpose so we should allow it to proceed. It is of particular interest to me because I am shadow minister for the arts, I am very interested in the work of the Film and Sound Archive and Australia's film history and culture, and because their headquarters is in my electorate. So there are three very good reasons why the matter ought to be considered seriously.

I am not absolutely convinced that the amendment being moved is necessary but it does some good and no harm. In fact, the Greens originally proposed in the Senate a more robust version of the amendment, requiring specific reporting about the activities of the previously entitled National Film and Sound Archive. My advice to opposition senators was that we should vote for that in its original form. However, the Greens came to an agreement with the government about a modified form which is not as strong but points in the same direction. I am quite relaxed about supporting it.

What it points to—and this is its strength—is the concern that a number of people have, and which I have expressed here, about the continuing independent identity of the National Film and Sound Archive and the continuing commitment to the archive function. I think the Film Commission is a very fine body which has a long history and has—beyond its well-known functions in some funding initiatives with regard to the film industry—a responsibility for film culture. The Film and Sound Archive can fit into that and, with good management—and the leadership of the Film Commission at the moment is of high quality—it can turn into a positive and both organisations can gain. It is a matter about which, in the three hats I outlined earlier, I will be taking a very active interest.

On behalf of the opposition I indicate that we continue our support for the bill and we support the amendment. We hope that it achieves the positives that we all hope for, without any of the down side which some of us fear. It is a net plus and we should let the Film and Sound Archive people get on with things under the new auspices of the Film Commission. We support the bill and the amendment.

The DEPUTY SPEAKER (Hon. L.R.S. Price)—The question is that the amendment be agreed to.

Question agreed to.

PARLIAMENTARY ZONE

Approval of Proposal

The DEPUTY SPEAKER (Hon. L.R.S. Price) (5.40 p.m.)—The Speaker has received a message from the Senate acquainting the House that, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the parliamentary zone, being additional works connected with the reconstruction of the Old Parliament House Gardens.

BILLS RETURNED FROM THE SENATE

The following bills were returned from the Senate without amendment or request:

HIH Royal Commission (Transfer of Records) Bill 2003

National Health Amendment (Private Health Insurance Levies) Bill 2003

Private Health Insurance (ACAC Review Levy) Bill 2003

Private Health Insurance (Collapsed Organization Levy) Bill 2003

Private Health Insurance (Council Administration Levy) Bill 2003

Private Health Insurance (Reinsurance Trust Fund Levy) Bill 2003

Governor-General Amendment Bill 2003

Workplace Relations Amendment (Protection for Emergency Management Volunteers) Bill 2003

MIGRATION AMENDMENT (DURATION OF DETENTION) BILL 2003

Second Reading

Debate resumed.

Mr ALBANESE (Grayndler) (5.41 p.m.)—I rise to support the second reading amendment, which I have seconded and which was moved by my colleague the member for Lalor. In the event this amendment is not carried I oppose the Migration Amendment (Duration of Detention) Bill 2003 which has been placed before this House in such extreme haste. This legislative change seeks to further strengthen the government's arbitrary power to detain, for an indefinite period, a person who does not have a valid visa, who can be removed or deported.

One has to be suspicious of the motives of a government which chooses to introduce such legislation, further restricting, as it does, a court's ability to intervene and secure a person's liberty without providing the members of this House, the legal fraternity, or the wider community, with adequate opportunity to discern its intent and consider its implications. One can only conclude that the bill has been hastily brought before us as a cynical attempt to distract attention from the very serious issue of the granting of permanent residency visas following some fairly hefty donations to the Liberal Party, and in particular to the campaign accounts of the Minister for Immigration and Multicultural and Indigenous Affairs. Despite the haste with which this bill has been brought on let me assure members that it has not escaped close scrutiny from this side of the House.

I want to deal now with the provisions of this bill. Presently the Migration Act provides that a person who does not have a valid visa to be in Australia must be kept in immigration detention unless he or she is removed or deported from Australia or is granted a visa. To date, however, this provision has not prevented the courts from making orders for the release of persons from immigration detention in certain circumstances—as an interim order, when a detainee has initiated judicial review proceedings which are yet to be determined and it is held that there is a serious question to be tried in those proceedings and the balance of convenience is in favour of the detainee's release. An example of such circumstances is where a serious issue as to the validity of the department's action in cancelling or refusing a visa is raised for determination, or where it is clear that a person is being detained as a result of an administrative error. A further example is an interim or final order when it is considered by the court that the continued detention of the detainee has become unlawful because he or she is unable to be removed or deported and that situation is unlikely to change in the foreseeable future. The court's attitude in these circumstances was made clear in a case involving Mr Al Masri, a Palestinian detained in immigration detention, who wished to return home but was unable to be removed because of the political situation in the Middle East. In his case the full bench of the Federal Court determined:

> ... it seems to us that if the question is asked directly, the short answer may well be that in the absence of any real likelihood or prospect of removal being effected in the reasonably foreseeable future, the connection between the purpose of removing aliens and their detention becomes so tenuous, if indeed it still exists, as to change the character of the detention so that it becomes essentially punitive in nature.

In other words, a failure to effect the removal or deportation of a detainee within a reasonably foreseeable time may result in a court deciding that the detention was no longer for administrative purposes but for punitive purposes and was therefore unlawful.

The proposed bill seeks to prevent outright the release of a person from immigration detention as an interim measure whilst that person awaits a court's final determination as to his or her entitlement to a valid visa or as to the lawfulness of his or her detention. This is despite any argument of merit that there is no real likelihood of the person being removed or detained in the reasonably foreseeable future or that a visa decision relating to the person's detention may be unlawful.

The injustice of this bill cannot be overstated. The court, in its usual reasoning process, is well equipped to consider at the initial stages of an application whether an issue to be determined is one of merit and a matter in which an applicant detainee has reasonable prospects of success. In those circumstances, it is desirable that a detainee be released into the community whilst he or she awaits the court's final decision. The decision on whether or not to grant interim orders for release should be a matter for the court in any particular case.

A clear example in which interim release was found to be justifiable is the recent case of VFAD. In this case the Department of Immigration and Multicultural and Indigenous Affairs had prepared and dated a decision record which determined that the applicant detainee should be granted a visa subject to the receipt of an appropriate security clearance. The security clearance was received while the department's decision maker was on leave. Subsequently the department suspended the processing of visa applications for applicants from that detainee's home country, and the applicant therefore remained in detention without the grant of a visa. Just think about that. Someone was kept in detention because a departmental staff member went on leave—they stayed jailed as if they were a criminal because someone from the department went on leave.

This bill is all about circumventing what happened next. When the applicant realised that a decision had been made by the department in his favour, an application was made for his release pending the court's final determination as to whether the decision record and security clearance constituted, to all intents and purposes, a visa grant. After hearing argument that there was a serious issue to be tried and the balance of convenience favoured his release, the court ordered his release pending its final decision. If this draconian bill becomes law, the court will no longer have the discretion to consider such an order for the interim release of a detainee in these or in similar justifiable circumstances.

I believe that Australians with any commonsense would regard the circumstances in the case of VFAD as simply unacceptable, as the court did. In his second reading speech before this House last Wednesday, 18 June, the Minister for Immigration and Multicultural and Indigenous Affairs stated:

> Since the latter part of 2002, the Federal Court has decided that the Migration Act does not preclude the court from making interlocutory orders that persons be released from immigration deten-

tion pending the court's final determination of the person's judicial review application.

Such orders mean that a person must be released into the community until such time as the court finally determines their application. The court's final determination of the case can take anywhere between several weeks and several months. Where the person is subsequently unsuccessful, that person must be relocated, redetained and arrangements then made for their removal from Australia. This is a time consuming and costly process and can further delay removal from Australia.

But the minister neglected, as always, to articulate the other side of the argument. For this minister it is all politics; it is all about wedge politics. It is all about creating division, mistrust and suspicion towards people who, as our national anthem states, come to this land for a better life and to escape the persecution they allege they have endured in their country of origin, regardless of the merits of each case. This is a minister who is prepared to incarcerate people in order to gain political advantage.

If this bill becomes law, a person in detention will not be able to make a valid application to the courts for interim release and will, without exception, remain in detention for the weeks, months or possibly years the final determination may take. In the event that the court finally determines that the applicant is in fact the holder of a valid visa or that his or her detention has been from some point unlawful, the person concerned will have been required to endure a potentially lengthy period of detention in one of Australia's immigration detention centres for no lawful purpose.

In my view, this is simply untenable. The Minister for Immigration and Multicultural and Indigenous Affairs is obsessed with bringing absolute clarity to the workings of the Migration Act. He speaks of making 'parliament's intentions unmistakably clear' and 'preventing the integrity of the act from being compromised'. His actions are the antithesis of integrity. It is part of a process of dehumanising people in which this minister is engaged—and his physical deterioration can be seen as a result. That is why people are referred to as numbers rather than as people. That is why we have seen a preparedness to say anything and do anything in order to reinforce prejudice, highlighted perhaps most damningly by the 'children overboard' affair.

Labor believes, however, that, where the fundamental issue of personal liberty is concerned, it is essential to good law that any legislation imports an element of flexibility so as to allow a decision to be made as to what is reasonable in any particular case. This is our common law heritage. It is our common law heritage which this government seeks to tear down. As was stated in the Al Masri case:

... when the demands of certainty and liberty come into conflict, the tradition of the common law is to lean towards liberty.

This is as it should be. This is a compassionate approach, involving as it does the safeguarding of a fundamental human right. This is what this government finds objectionable. For let us not forget that when we are talking of immigration detention in Australia, we are talking of a current regime that detains men, women and children, the young and the elderly, the healthy and the sick. We are talking of a current regime that arguably contravenes the Convention relating to the Status of Refugees, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child. We are talking of a current regime which appears content with a system of indefinite detention

for many failed asylum seekers and their children. As Amnesty International Australia states:

> Currently populations of those in detention are remaining incarcerated indefinitely because Australia does not have diplomatic contact with their country of origin and thus cannot send them back. In other situations countries refuse to accept returning "failed asylum seekers." Thus these people remain in detention, refused permission to stay in Australia, unable to be returned to their home country. They are never charged and no court reviews the length of their detention. They have become forgotten detainees.

Of most urgent concern—and Labor's amendment goes to the heart of this—must be the current situation in relation to the detention of children. In this regard, Amnesty states:

> Amnesty International has grave concerns for children currently held in Immigration Detention Centres. Considerable evidence has shown detention centre environments are inadequate to meet the special needs of any child, let alone children who have suffered human rights abuses and the trauma of fleeing their home.

As at November 2002, 139 children were held in immigration centres in Australia and 100 of those children were school age. There is no legal limit on the length of their detention. Amnesty states:

> Young children have witnessed their parents abused and ill-treated which is particularly traumatic. Child detainees have witnessed traumatic events such as detainees rioting and sewing their lips together in protest. Children have also suffered when guards have responded with tear gas or late night spot checks.

The minister shows his arrogance by wearing an Amnesty International badge in his lapel. How offensive! In May 2002 the Women Barristers Association, in its submission to the Human Rights and Equal Opportunity Commission in relation to its national inquiry into children in immigration detention, said:

> The experiences recorded demonstrate that most if not all children in detention are suffering; some are treated poorly; some are denied proper health, education, recreation; some are forcibly separated from their families; some are exposed to violence and self harm; some are witnesses to their families' psychological and physical distress; some are subject to arbitrary and harsh punishments; and most are experiencing unabated and unrelieved trauma and grief.

The deleterious effects of indefinite detention on the health and wellbeing of children cannot be overstated. Dr Louise Newman, Chair of the Faculty of Child and Adolescent Psychiatry, Royal Australian and New Zealand College of Psychiatrists, states:

> Children currently held in detention centres have been exposed to serious psychological distress in adults and adult self-harming behaviours, and have experienced cultural dislocation and community trauma. In these circumstances it is likely that many will develop Post Traumatic Stress Disorder and that this may become chronic with effects on development.

What sort of government ignores those reports? The most telling report is that provided to the *Medical Journal of Australia* jointly by a former Villawood detention centre detainee, Dr Aamer Sultan, and by a former visiting clinical psychologist to Villawood, Kevin O'Sullivan. To prepare the report, data was collected from a survey of 33 detainees who had been held for over nine months. Their observations suggested some common themes in the psychological reaction patterns of detainees over time. They describe four stages of psychological disability: the non-symptomatic stage during the early months of detention and the primary, then secondary, then tertiary depressive stages. Most disturbingly, in children they observed a wide range of psychological disturbances, including

separation anxiety, disruptive conduct, sleep disturbances, nightmares and night terrors, sleepwalking and impaired cognitive development. At the most severe end of the spectrum, a number of children displayed profound symptoms of psychological distress, including mutism, stereotypic behaviours and refusal to eat or drink. Rather than use its considerable resources to find effective solutions to this, the government has reacted to criticisms of its immigration policy by seeking to further strengthen its powers of long-term and indefinite detention.

In the face of so much opinion to the contrary, this government is determined to maintain its rigid and inflexible approach to asylum seekers and their children, and in its typical defensive fashion, further restrict the ability of the country's judiciary to scrutinise and review its decisions. Chris Sidoti, National Spokesperson of the Human Rights Council of Australia, states:

> What is not acceptable is extending mandatory detention indefinitely, denying individual assessment of the need to detain and prohibiting judicial review of detention beyond the initial period.

The amendment goes to the Prime Minister's statements that contact with fathers is vital for children. We see exclusives given to Sunday newspapers about how important the family unit is, according to this Prime Minister, who probably feels a bit guilty about the amount of time that he has been able to spend—as politicians are, given our unfair sitting hours—with our own children. We all find it difficult.

At the same time, we have the situation involving two children of the Samaki family—a classic example of the inhumanity of this government—whose mother was killed in the Bali bombing, an issue which all of us feel very passionately about. This is an opportunity to show some compassion, as well as passion, and to allow the children to visit their father. What sort of humanity in 2003 will not allow two children, whose mother has been killed by a terrorist action, to visit their father in detention? I condemn the Howard government—every single member—for not allowing that to happen. It exposes the hypocrisy that this government is on about. I am concerned for a society that is prepared to deprive people of their liberty indefinitely without an opportunity for court intervention, and that is why this amendment should be supported. *(Time expired)*

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

BROADCASTING SERVICES AMENDMENT (MEDIA OWNERSHIP) 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 2, page 5 (after line 8), after item 1, insert:

1AA After section 43

Insert:

43A Material of local significance—regional aggregated commercial television broadcasting licences

(1) For the purposes of this section:

(a) a ***regional aggregated commercial television broadcasting licence*** is a commercial television broadcasting licence for a licence area set out in the table; and

(b) the ***applicable date*** for such a licence is the date set out in the table opposite the licence area of the licence:

Licence area and applicable date		
Item	**Licence area**	**Applicable date**
1	Northern New South Wales	1 August 2003
2	Southern New South Wales	1 August 2003
3	Regional Victoria	1 August 2003
4	Eastern Victoria	1 August 2003
5	Western Victoria	1 August 2003
6	Regional Queensland	1 August 2003
7	Tasmania	1 July 2004

(2) The ABA must ensure that, at all times on and after the applicable date for a regional aggregated commercial television broadcasting licence, there is in force under section 43 a condition that has the effect of requiring the licensee to broadcast to each local area, during such periods as are specified in the condition, at least a minimum level of material of local significance.

(3) The condition must define ***local area*** and ***material of local significance*** for the purposes of the condition. The definition of ***material of local significance*** must be broad enough to cover news that relates directly to the local area concerned.

(4) To avoid doubt, this section does not:

(a) prevent the condition from setting out different requirements for different types of material; or

(b) prevent the condition from specifying periods that recur (for example, the hours between 7 am and 10 am Monday to Friday); or

(c) prevent the condition from setting out different requirements for different periods; or

(d) create any obligations under subsection 43(2) that would not exist apart from this section.

(5) Subsection 43(5) does not apply to the condition.

(6) This section does not, by implication, limit the powers conferred on the ABA by section 43 to impose, vary or revoke other conditions.

(2) Schedule 2, page 5 (before line 9), before item 1A, insert:

1AB Before section 44

Insert:

43B Material of local significance—metropolitan commercial television broadcasting licences

(1) For the purposes of this section, a ***metropolitan commercial television broadcasting licence*** is a commercial television broadcasting licence that has a metropolitan licence area (as defined by section 61B).

(2) The ABA must ensure that, at all times on and after 1 July 2004, there is in force under section 43, for each metropolitan commercial television broadcasting licence, a condition that has the effect of requiring the licensee to broadcast to each local area, during such periods as are specified in the condition, at least a minimum level of material of local significance.

(3) The condition must define ***local area*** and ***material of local significance*** for the purposes of the condition. The definition of ***material of local significance*** must be broad enough to cover news that relates directly to the local area concerned.

(4) To avoid doubt, this section does not:

(a) prevent the condition from setting out different requirements for different types of material; or

(b) prevent the condition from specifying periods that recur (for example, the hours between 7 am and 10 am Monday to Friday); or

(c) prevent the condition from setting out different requirements for different periods; or

(d) create any obligations under subsection 43(2) that would not exist apart from this section.

(5) Subsection 43(5) does not apply to the condition.

(6) This section does not, by implication, limit the powers conferred on the ABA by section 43 to impose, vary or revoke other conditions.

(3) Schedule 2, item 4, page 9 (line 12), omit "has a regional licence area", substitute "is a regional commercial radio broadcasting licence".

(4) Schedule 2, item 4, page 10 (after line 5), after the definition of ***metropolitan licence area***, insert:

minimum number of media groups test has the meaning given by section 61FA.

(5) Schedule 2, item 4, page 10 (before line 29), before the definition of ***set of media operations***, insert:

separately-controlled newspaper test has the meaning given by section 61FB.

(6) Schedule 2, item 4, page 11 (line 2), omit "licence; or", substitute "licence.".

(7) Schedule 2, item 4, page 11 (lines 3 to 6), omit paragraph (d).

(8) Schedule 2, item 4, page 11 (before line 7), before the definition of ***week***, insert:

unacceptable 3-way control situation, in relation to a person, means the situation in which the person would, apart from this Division, breach each of the following prohibitions:

(a) a prohibition in section 60 or 61 that relates directly or indirectly to a set of media operations that consists of:

(i) a commercial television broadcasting licence; and

(ii) a commercial radio broadcasting licence;

that have the same licence area;

(b) a prohibition in section 60 or 61 that relates directly or indirectly to a set of media operations that consists of:

(i) a commercial television broadcasting licence; and

(ii) a newspaper that is associated with the licence area of the licence;

where the licence and the commercial radio broadcasting licence mentioned in paragraph (a) have the same licence area;

(c) a prohibition in section 60 or 61 that relates directly or indirectly to a set of media operations that consists of:

(i) a commercial radio broadcasting licence; and

(ii) a newspaper that is associated with the licence area of the licence;

where the licence and the commercial television broadcasting licence mentioned in paragraph (a) have the same licence area.

(9) Schedule 2, item 4, page 11 (after line 7), after section 61B, insert:

61BA Extended meaning of **unacceptable 3-way control situation**

(1) The definition of ***unacceptable 3-way control situation*** in section 61B has effect, in relation to a regional licence area, as if:

(a) each reference in the following provisions (the ***modified provisions***) to a newspaper included a reference to a local paper:

(i) that definition;

(ii) the definition of ***associate*** in subsection 6(1);

(iii) section 7;

(iv) section 60;

(v) section 61;

(vi) the definition of ***set of media operations*** in section 61B;

(vii) Schedule 1; and

(b) for the purposes of the modified provisions and paragraph (c), a local paper were associated with the licence area of a commercial television broadcasting licence or a commercial radio broadcasting licence if, and only if, at least 50% of the circulation of the local paper is within the licence area of the licence; and

(c) for the purposes of the modified provisions, if a person is (apart from this paragraph) in a position to exercise control of a local paper (the ***first local paper***) associated with the licence area of a commercial television broadcasting licence or a commercial radio broadcasting licence—the first local paper were ignored unless:

(i) the circulation of the first local paper within that licence area is at least 25% of the licence area population; or

(ii) the person is (apart from this paragraph) in a position to exercise control of one or more other local papers associated with the licence area of the licence, and the combined circulation of the first local paper and those other local papers within that licence area is at least 25% of the licence area population.

Definition

(2) In this section:

local paper means a newspaper (within the ordinary meaning of that expression) that:

(a) is in the English language; and

(b) is published at least once a week; and

(c) is not entered in the Associated Newspaper Register;

but does not include a publication if less than 50% of its circulation is by way of sale.

(10) Schedule 2, item 4, page 11 (lines 12 to 15), omit paragraph 61C(a), substitute:

(a) a cross-media exemption certificate is in force in relation to the set of media operations; and

(11) Schedule 2, item 4, page 11 (after line 16), after paragraph 61C(b), insert:

(ba) the person satisfies the separately-controlled newspaper test for the first-mentioned set of media operations; and

(12) Schedule 2, item 4, page 11 (line 24), omit "the company.", substitute "the company; and".

(13) Schedule 2, item 4, page 11 (after line 24), at the end of section 61C, add:

(d) an unacceptable 3-way control situation does not exist in relation to the person in connection with any licence or newspaper included in the set of media operations.

(14) Schedule 2, item 4, page 11 (after line 24), at the end of section 61C, add:

Note: For the separately-controlled newspaper test, see section 61FB.

(15) Schedule 2, item 4, page 12 (after line 23), after subsection 61D(5), insert:

(5A) The ABA may, by written notice given to the applicant, extend the 60-day period referred to in subsection (5), so long as:

(a) the extension is for a period of not more than 60 days; and

(b) the ABA has been unable to make a decision on the application within that 60-day period because of the need to apply any or all of the following:

(i) paragraph 61E(1)(aa);

(ii) paragraph 61E(1)(ab);

(iii) section 61FA; and

(c) the notice includes a statement explaining why the ABA has been unable to make the decision on the application within that 60-day period.

(16) Schedule 2, item 4, page 12 (line 30), omit "if", substitute "provided".

(17) Schedule 2, item 4, page 13 (after line 2), after paragraph 61E(1)(a), insert:

(aa) the set of media operations is not exempt from the minimum number of media groups test, and the ABA is satisfied that the minimum number of media groups test is satisfied for the set of media operations; and

(ab) the set of media operations is not exempt from the minimum number of media groups test, and the ABA is satisfied that, if the certificate were to be issued and become active, neither:

(i) the transactions, agreements and circumstances that resulted in the certificate becoming active; nor

(ii) any related transactions, agreements and circumstances;

will result in the minimum number of media groups test not being satisfied for the set of media operations; and

(18) Schedule 2, item 4, page 13 (line 4), omit "vexatious.", substitute "vexatious; and".

(19) Schedule 2, item 4, page 13 (after line 4), at the end of subsection 61E(1) (before the note), add:

(c) the ABA is satisfied that, if the certificate were to be issued, paragraph 61C(d) would not stop the certificate from becoming active.

(20) Schedule 2, item 4, page 13 (line 4), at the end of subsection 61E(1) (before the note), add:

; and (d) the application is not in relation to a set of media operations in a metropolitan licence area that includes a television broadcasting licence and a newspaper associated with the licence area.

(21) Schedule 2, item 4, page 13 (line 5), after "Note", insert "1".

(22) Schedule 2, item 4, page 13 (after line 5), at the end of subsection (1) (after the note), add:

Note 2: For the minimum number of media groups test, see section 61FA.

Note 3: For exemptions from the minimum number of media groups test, see section 61FB.

(23) Schedule 2, item 4, page 13 (after line 5), after subsection 61E(1), insert:

(1A) The ABA must refuse to issue a cross-media exemption certificate if it relates to a set of media operations in a metropolitan licence area and the set includes a television broadcasting licence and a newspaper associated with the licence area.

(24) Schedule 2, item 4, page 14 (after line 6), at the end of subsection 61F(2), add:

; and (d) the entities, or parts of the entities, that run those media operations, where those media operations involve a television station and one or more daily newspapers in the same market, have established an editorial board for the news and current affairs operation of the television station which will:

(i) have complete editorial control over the news and current affairs output of the television station, subject only to a right of veto by the entity over any story which is likely to expose the entity to a successful legal action for damages; and

(ii) consist of three members, one appointed by the entity, one elected by the staff of the news and current affairs operation, and an independent chair appointed

by agreement between the entity and the Authority; and

(iii) have the power to ratify the appointment or dismissal of the news editor, who in turn shall have the power to appoint or dismiss all staff of the news and current affairs operation within the budget set by the entity; and

(iv) abide by any commercial objectives set by the entity and approved by the Authority consistent with the objectives of this Act and this section.

(25) Schedule 2, item 4, page 14 (after line 16), after section 61F, insert:

61FA Minimum number of media groups test

(1) Use the table to work out whether the minimum number of media groups test is satisfied for a set of media operations:

Minimum number of media groups test		
Item	**If the set of media operations is...**	**the minimum number of media groups test is satisfied if...**
1	a commercial television broadcasting licence and a commercial radio broadcasting licence	there are at least the applicable number of points in the licence area of the commercial radio broadcasting licence.
2	a commercial television broadcasting licence and a newspaper	there are at least the applicable number of points in each commercial radio broadcasting licence area with which the newspaper is associated.
3	a commercial radio broadcasting licence and a newspaper	there are at least the applicable number of points in the licence area of the commercial radio broadcasting licence.

Applicable number of points

(2) For the purposes of the application of subsection (1) to a commercial radio broadcasting licence area:

(a) if the licence area is an area in which is situated the General Post Office of the capital city of:

(i) New South Wales; or

(ii) Victoria; or

(iii) Queensland; or

(iv) Western Australia; or

(v) South Australia; or

(vi) Tasmania;

the ***applicable number of points*** is 5; and

(b) in any other case—the ***applicable number of points*** is 4.

Points

(3) Use the table to work out the number of points in the licence area of a commercial radio broadcasting licence (the ***first radio licence area***):

Points

Item	This...	is worth...
1	a group of 2 or more media operations, where: (a) a person is in a position to exercise control of each of those media operations; and (b) each of those media operations complies with the statutory control rules; and (c) if a commercial television broadcasting licence is in the group—more than 50% of the licence area population of the first radio licence area is attributable to the licence area of the commercial television broadcasting licence; and (d) if a commercial radio broadcasting licence is in the group—the licence area of the commercial radio broadcasting licence is, or is the same as, the first radio licence area; and (e) if a newspaper is in the group—the newspaper is associated with the first radio licence area	1 point.
2	a commercial radio broadcasting licence, where: (a) the licence complies with the statutory control rules; and (b) the licence area of the licence is, or is the same as, the first radio licence area; and (c) item 1 does not apply to the licence	1 point.
3	a newspaper, where: (a) the newspaper complies with the statutory control rules; and (b) the newspaper is associated with the first radio licence area; and (c) item 1 does not apply to the newspaper	1 point.
4	a group of 2 or more commercial television broadcasting licences, where: (a) each of those licences complies with the statutory control rules; and (b) more than 50% of the licence area population of the first radio licence area is attributable to the licence area of each of those commercial television broadcasting licences; and (c) the commercial television broadcasting services to which those licences relate pass the shared content test in relation to each other; and (d) item 1 does not apply to either of those commercial television broadcasting licences	1 point.
5	a commercial television broadcasting licence, where: (a) the licence complies with the statutory control rules; and (b) more than 50% of the licence area population of the first radio licence area is attributable to the licence area of the commercial television broadcasting licence; and (c) the commercial television broadcasting service to which the licence relates does not pass the shared content test in relation to any other commercial television broadcasting service, where more than 50% of the licence area population of the first radio licence area is attributable to the licence area of the licence to which the other commercial television broadcasting service relates; and (d) item 1 does not apply to the first-mentioned licence	1 point.

(4)If, apart from this subsection, all the media operations in a group of media operations mentioned in an item of the table are also in one or more other groups mentioned in an item of the table, then, for the purposes of subsection (3), ignore the existence of:

(a) if one of the groups has the highest number of media operations—the remaining group or groups; or

(b) if 2 or more of the groups have an equal highest number of media operations:

(i) all but one of the groups that have an equal highest number of media operations; and

(ii) the remaining group or groups; or

(c) if the groups have an equal number of media operations—all but one of those groups.

Anti-avoidance

(5) If the ABA is satisfied that:

(a) a person (either alone or together with one or more other persons) has entered into, begun to carry out, or carried out, a scheme; and

(b) the person did so for the sole or dominant purpose of ensuring that the minimum number of media groups test is or will be satisfied for a set of media operations; and

(c) apart from this subsection, the scheme results or will result in a group of media operations being covered by an item of the table in subsection (3);

the ABA may, by writing, determine that the existence of that group is to be ignored for the purposes of subsection (3).

Statutory control rules

(6) For the purposes of this section, a media operation ***complies with the statutory control rules*** if, and only if:

(a) no person is in breach of a prohibition in Division 2, 3 or 5 that relates directly or indirectly to the media operation; or

(b) a person is in breach of a prohibition in Division 2, 3 or 5 that relates directly or indirectly to the media operation, but the ABA has approved the breach under section 67.

Note: Section 67 is about approval of temporary breaches.

Shared content test

(7) For the purposes of this section, a commercial television broadcasting service ***passes the shared content test*** at a particular time in relation to another commercial television broadcasting service if:

(a) the program content of at least 50% of the total number of hours of programs broadcast by the first-mentioned service during daytime/ evening hours during the 6-month period ending at that time;

were the same as:

(b) the program content of at least 50% of the total number of hours of programs broadcast by the other service during daytime/evening hours during the 6-month period ending at that time.

(8) For the purposes of subsection (7), ignore the following:

(a) advertising or sponsorship material (whether or not of a commercial kind);

(b) a promotion for a television program or a television broadcasting service;

(c) community information material or community promotional material;

(d) a news break or weather bulletin;

(e) any other similar material.

(9) For the purposes of subsection (7), ignore the following:

(a) any material covered by paragraph 6(8)(b), (c) or (d) of Schedule 4;

(b) a program covered by paragraph 37EA(1)(a) of Schedule 4.

Overlapping licence areas

(10) Section 51 does not apply to this section.

Note: Section 51 is about overlapping licence areas.

Definitions

(11) In this section:

daytime/evening hours means the hours:

(a) beginning at 6 am each day; and

(b) ending at midnight on the same day.

media operation means:

(a) a commercial television broadcasting licence; or

(b) a commercial radio broadcasting licence; or

(c) a newspaper.

scheme means:

(a) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable, or intended to be enforceable, by legal proceedings; and

(b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

61FB Exemptions from the minimum number of media groups test—remote areas

Use the table to work out whether a set of media operations is exempt from the minimum number of media groups test:

Exemptions from the minimum number of media groups test

Item	If the set of media operations is...	the set is exempt from the minimum number of media groups test if...
1	a commercial television broadcasting licence and a commercial radio broadcasting licence	the commercial radio broadcasting licence area is: (a) Remote Commercial Radio Service North East Zone; or (b) Remote Commercial Radio Service Western Zone; or (c) Remote Commercial Radio Service Central Zone.

(26) Schedule 2, item 4, page 14 (before line 17), before section 61G, insert:

61FC Separately-controlled newspaper test

(1) Use the table to work out whether a person satisfies the separately-controlled newspaper test for a set of media operations:

Separately-controlled newspaper test

Item	If the set of media operations is...	the separately-controlled newspaper test is satisfied if...
1	a commercial television broadcasting licence and a commercial radio broadcasting licence	the person is not in a position to exercise control of more than one newspaper associated with the licence area of the commercial radio broadcasting licence.

Separately-controlled newspaper test		
Item	**If the set of media operations is...**	**the separately-controlled newspaper test is satisfied if...**
2	a commercial television broadcasting licence and a newspaper	for each commercial radio broadcasting licence area with which that newspaper is associated, the person is not in a position to exercise control of more than one newspaper associated with the commercial radio broadcasting licence area.
3	a commercial radio broadcasting licence and a newspaper	the person is not in a position to exercise control of more than one newspaper associated with the licence area of the commercial radio broadcasting licence.

(2) Section 51 does not apply to this section.

Note: Section 51 is about overlapping licence areas.

(27) Schedule 2, item 4, page 28 (line 14), at the end of the heading to Subdivision C, add "**for commercial radio broadcasting licensees**".

(28) Schedule 2, item 4, page 28 (lines 16 and 17), omit "commercial television broadcasting licence, or a commercial radio broadcasting licence,", substitute "commercial radio broadcasting licence".

(29) Schedule 2, item 4, page 28 (lines 21 and 22), omit "commercial television broadcasting licensee or a".

(30) Schedule 2, item 4, page 29 (lines 9 and 10), omit "commercial television broadcasting licensee or a".

(31) Schedule 2, item 4, page 29 (lines 16 and 17), omit "commercial television broadcasting licensee or a".

(32) Schedule 2, item 4, page 30 (line 11), omit "commercial television broadcasting licence or a".

(33) Schedule 2, item 4, page 30 (lines 25 and 26), omit "commercial television broadcasting licence or a".

(34) Schedule 2, item 4, page 32 (line 17), omit "commercial television broadcasting licence or a".

(35) Schedule 2, item 4, page 34 (line 5), omit "commercial television broadcasting licence or a".

(36) Schedule 2, item 4, page 35 (line 16), omit "commercial television broadcasting licence or a".

(37) Schedule 2, page 36 (after line 13), after item 5, insert:

5A At the end of paragraph 67(4)(c)

Add "and".

5B After paragraph 67(4)(c)

Insert:

(d) the breach would not result from the person or another person becoming the successful applicant for the allocation of a commercial radio broadcasting licence;

5C Subsection 67(4)

After "the applicant", insert "for approval".

5D After subsection 67(5)

Insert:

(5A) In deciding the duration of the period to be specified in the notice, the ABA:

(a) must have regard to the minimum period within which the person could take action (other than surrendering a licence or causing a licence to be surrendered) to ensure that the breach of the relevant provision ceases; and

(b) must not have regard to any other matters.

5E Subsection 67(7)

Omit "2 years", substitute "one year".

5F Application of amendments—section 67 of the *Broadcasting Services Act 1992*

(1) Paragraph 67(4)(d) and subsection 67(5A) of the *Broadcasting Services Act 1992* apply in relation to applications made under subsection 67(1) of that Act after the commencement of this item.

(2) The amendment of subsection 67(7) of the *Broadcasting Services Act 1992* made by this Schedule applies if the 45-day period referred to in that subsection ends after the commencement of this item.

(38) Schedule 2, page 36 (after line 13), after item 5, insert:

5FA After section 77

Insert:

77A This Part does not authorise anti-competitive conduct

Nothing in this Part is to be taken as specifically authorising any act or thing for the purposes of subsection 51(1) of the *Trade Practices Act 1974*.

Note 1: Section 50 of the *Trade Practices Act 1974* prohibits acquisitions that would have the effect, or be likely to have the effect, of substantially lessening competition in a market. Subsection 51(1) of that Act provides that section 50 does not apply to anything authorised by an Act.

Note 2: The question of whether a cross-media acquisition contravenes section 50 of the *Trade Practices Act 1974* involves identifying the relevant market or markets in which the acquisition would have the effect, or be likely to have the effect, of substantially lessening competition.

Note 3: The question of what is a relevant market is worked out under the *Trade Practices Act 1974*, and there is nothing in that Act that limits it to a market regulated by this Part.

(39) Schedule 2, page 36 (after line 13), after item 5, insert:

5G At the end of Part 5

Add:

78A Review of this Part

(1) Before 31 December 2006, the Minister must cause to be conducted a review of this Part.

(2) The Minister must cause a report to be prepared of the review under subsection (1).

(3) The Minister must cause copies of the report to be tabled before each House of the Parliament within 15 sitting days of that House after the completion of the preparation of the report and, in any case, no later than 30 June 2007.

(40) Schedule 2, item 7, page 36 (line 19), omit "or (e)".

(41) Schedule 2, item 8, page 36 (line 28), omit "or (e)".

(42) Schedule 2, page 37 (after line 8), after item 8, insert:

8AA Before section 150

Insert:

150A Action by ABA in relation to a broadcasting service where complaint justified

(1) If, having investigated a complaint, the ABA is satisfied that:

(a) the complaint was justified; and

(b) the ABA should take action under this section to encourage a provider

of a broadcasting service to comply with the relevant code of practice;

the ABA may, by notice in writing given to a provider of a broadcasting service, recommend that it take action to comply with the relevant code of practice and take such other action in relation to the complaint as is specified in the notice.

(2) That other action may include broadcasting or otherwise publishing an apology or retraction or providing a right of reply.

(3) The ABA must notify the complainant of the results of such an investigation.

150B ABA may report to Minister on results of recommendation

(1) If:

(a) the ABA has made a recommendation to a provider of a broadcasting service under section 150A; and

(b) the provider of a broadcasting service has not, within 30 days after the recommendation was given, taken action that the ABA considers to be appropriate;

the ABA may give the Minister a written report on the matter.

(2) The Minister must cause a copy of the report to be laid before each House of the Parliament within 7 sitting days of that House after the day on which he or she receives the report.

(43) Schedule 2, page 37 (after line 8), after item 8, insert:

8AB At the end of subsection 152(2)

Add "or providing a right of reply".

(44) Schedule 2, item 12, page 38 (line 4), omit "section 61PA;", substitute "section 61PA.".

(45) Schedule 2, item 12, page 38 (lines 5 and 6), omit paragraph 7(1)(q).

(46) Schedule 2, item 13, page 38 (line 10), omit "section 61P;", substitute "section 61P.".

(47) Schedule 2, item 13, page 38 (lines 11 and 12), omit paragraph 7(2)(e).

(48) Schedule 2, page 38 (after line 26), at the end of the Schedule, add:

17 Subclause 2(1) of Schedule 6

Insert:

local sports news bulletin has the meaning given by clause 5A.

18 Subclause 2(1) of Schedule 6

Insert:

local sports program has the meaning given by clause 5A.

19 After clause 5 of Schedule 6

Insert:

5A Local sports programs and local sports news bulletins

Local sports program

(1) For the purposes of this Schedule, a ***local sports program*** is a sports program the sole purpose of which is to provide:

(a) coverage of one or more local sporting events; or

(b) analysis, commentary or discussion in relation to one or more local sporting events;

or both, but does not include a local sports news bulletin.

Local sports news bulletin

(2) For the purposes of this Schedule, a ***local sports news bulletin*** is a sports news bulletin the sole purpose of which is to provide news about one or more local sporting events.

Local sporting event

(3) For the purposes of the application of this clause to a datacasting licence, a sporting event is a ***local sporting event*** if, and only if:

(a) the event takes place wholly within the relevant transmitter licence area; or

(b) the event is a team event, and at least one competing team represents a location within, or an organisation based within, the relevant transmitter licence area.

(4) However, none of the following is a local sporting event:

(a) a sporting event that is, or is part of, an international sporting competition;

(b) a sporting event that is, or is part of, a national sporting competition;

(c) a sporting event that is, or is part of, the highest level competition for a particular sport within a particular State or Territory;

(d) a sporting event specified in a notice under subsection 115(1).

Relevant transmitter licence area

(5) For the purposes of the application of this clause to a datacasting licence, if a transmitter licence authorises the operation of a transmitter or transmitters for transmitting the datacasting service concerned in a particular area, that area is the ***relevant transmitter licence area***.

Definitions

(6) In this clause:

foreign location means a location in a foreign country.

foreign organisation means an organisation based in a foreign country.

foreign resident means an individual whose ordinary place of residence is in a foreign country.

international sporting competition includes (but is not limited to):

(a) a sporting competition (at any level) that is part of an international circuit or series; or

(b) a sporting competition (at any level) that is an individual competition, where 50% or more of the competitors are foreign residents; or

(c) a sporting competition (at any level) that is a team competition, where 50% or more of the competing teams represent a foreign location or foreign organisation.

national sporting competition means:

(a) a sporting competition (at any level) that is part of an Australian circuit or series; or

(b) a sporting competition (at any level) that:

(i) is an individual competition; and

(ii) operates as a single competition in Australia;

even if:

(iii) a small proportion of the competitors are foreign residents; or

(iv) a small proportion of the events take place in a foreign country; or

(c) a sporting competition (at any level) that:

(i) is a team competition; and

(ii) operates as a single competition in Australia;

even if:

(iii) a small proportion of the competing teams represent a foreign location or foreign organisation; or

(iv) a small proportion of the events take place in a foreign country.

20 After subclause 14(4) of Schedule 6

Insert:

(4A) The condition set out in subclause (1) does not prevent the licensee from transmitting a local sports program.

21 Subclause 14(5) of Schedule 6

After "(2)", insert "or (4A)".

22 After subclause 16(3) of Schedule 6

Insert:

(3A) The condition set out in subclause (1) does not prevent the licensee from transmitting a local sports news bulletin.

23 Subclause 16(5) of Schedule 6

Omit "(2) or (3)", substitute "(2), (3) or (3A)".

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (6.02 p.m.)—I indicate to the House that the government proposes that amendments Nos (1) to (15), (17) to (19), (21), (22), (25) to (41), and (44) to (48) be agreed to, and that amendments Nos (16), (20), (23), (24), (42) and (43) be disagreed to. I suggest, therefore, that it may suit the convenience of the House to first consider amendments Nos (1) to (15), (17) to (19), (21), (22), (25) to (41), and (44) to (48) and, when those amendments have been disposed of, to consider amendments Nos (16), (20), (23), (24), (42) and (43). I therefore move:

That Senate amendments Nos (1) to (15), (17) to (19), (21), (22), (25) to (41) and (44) to (48) be agreed to.

The Broadcasting Services Amendment (Media Ownership) Bill 2002 has been accepted and amended by the Senate. The government made an election commitment to the Australian public that it would reform Australia's cross-media ownership laws and remove media-specific foreign ownership restrictions. Without reform, the current media ownership laws will consign the Australian media sector to an outdated structure and prevent it from responding to a rapidly evolving and converging international media environment. Cross-media restrictions severely limit the ability of Australian media companies to expand their business. This means that companies are forced to engage in cost-cutting exercises to remain competitive and achieve efficiencies. The government's bill provides a sensible reform framework which balances the legitimate public interest of diversity of opinion and competition and enables the sector to grow and prosper.

The government is willing to accept a number of the Senate amendments, as I have indicated, which enhance and support the provisions of the bill. With these amendments, the bill continues to enable Australian media operators to remain competitive and viable in a dynamic world communications market, while ensuring that Australians continue to have access to a diverse range of media voices. However, as I have also indicated, the government is unwilling to accept some of the Senate amendments which would fundamentally undermine the intended operation of the bill.

With respect to the amendments accepted by the government, amendments are made to establish a requirement on the Australian Broadcasting Authority to impose local content licence conditions on commercial television licensees in the four aggregated markets of regional Queensland, northern New South Wales, southern New South Wales and regional Victoria, as well as television licensees in Tasmania. These rules would replace local television news obligations that would have applied only to regional commercial television broadcasters that are subject to an exemption certificate. This provides an assurance that the outcome of the ABA's 2002 inquiry into the adequacy of local television news and information programs in rural and regional Australia will continue to be in force in the future.

The amendments to the bill also extend the requirement to broadcast a minimum amount of material of local significance to commercial television operators in metropolitan areas as a means of ensuring that broadcasters in these markets also satisfy their audiences

need for local news and information. The requirement for the ABA to impose a relevant licence condition on broadcasters in metropolitan areas will enable a proper investigation to be undertaken into the appropriate level of local content for those markets.

The amendments to the bill have the effect of ensuring that no person in any market may control more than two types of media covered by the cross-media rules, commercial television and radio broadcasters, and newspapers. Previous amendments to the bill apply this two out of three rule only to regional areas. Extending this rule to metropolitan areas strengthens the already robust diversity safeguards contained in the bill and the act, including the limits on the number of commercial television and commercial radio licences a person may control in a market and the requirement for editorial separation.

The amendments also extend the operation of the two out of three rule, which provides that any media group with accumulated holdings of local newspapers which together have a circulation of 25 per cent or greater in the licence area will be subject to the two out of three limit as if it held an associated newspaper. These amendments mean that small newspapers that provide relevant local voices will be counted in the application of the two out of three rule.

Amendments to the bill provide a guarantee that mergers will not result in fewer than four media groups in regional Australia or five media groups in the larger markets of the state capitals. The amendments provide another assurance of diversity in the media sector and will prevent any mergers in some smaller markets in regional and metropolitan Australia which will not have the minimum number of media groups required to allow any merger activity. Amendments to the bill prevent a cross-media exemption certificate holder from controlling more than one newspaper in a single market. These amendments provide additional reassurance that diversity of opinion will be maintained. *(Extension of time granted)*

The ACCC has an important role to play in considering the competition effects of mergers, including cross-media acquisitions. Amendments to the bill provide assurances that nothing in the amendments or, in fact, in the ownership and control provisions as a whole prevents the Trade Practices Act from applying to cross-media acquisitions. Amendments to the bill require a statutory review to be undertaken of the broadcasting ownership and control provisions contained within part V of the Broadcasting Services Act 1992.

The bill performs an integral part of the government's commitment to respond to the rapidly changing communications sector, with progressive communications policies which reflect today's market conditions. Hence it is logical that the government include a provision which will ensure the bill retains its currency in the near future and beyond. The amendments provide that the report must be tabled by 30 June 2007. The amendments allow datacasters to show programs which deal with local sporting events. This change has the potential to allow sport not previously broadcast on free-to-air television to be televised under a datacasting licence to increase coverage of local sporting events and to assist in promoting local sport.

The government previously introduced amendments to the bill to prevent the sale of radio licences from being the subject of conditions which would restrict future program formats. Amendments to the bill build upon these earlier amendments by restricting the circumstances in which an approval of a temporary ownership or control breach could be

be granted under section 67 of the Broadcasting Services Act 1992. The amendments will restrict the capacity of broadcasters to use the temporary approval mechanism to engage in conduct designed to manage regional radio markets. I commend these amendments to the chamber.

Mr MURPHY (Lowe) (6.10 p.m.)—What a dishonest contribution to the House here this evening from the Parliamentary Secretary to the Minister for Finance and Administration.

Mr Slipper—Mr Deputy Speaker, I rise on a point of order. I suspect that the member for Lowe was using somewhat flamboyant language, but it was certainly offensive to me for him to advise the House that I have made a dishonest contribution.

Mr MURPHY—I withdraw.

The DEPUTY SPEAKER (Hon. L.R.S. Price)—I thank the member for Lowe.

Mr MURPHY—There is a lot I could be saying on this, but we have a very short time here this evening—which is a tragedy for the public interest and the future of our democracy. The comment the parliamentary secretary just made about the promise the government made before the last election that they would reform the media is true—they did. I have read the coalition's policy document 'Broadcasting for the 21st Century'. But do you think that document spelt out the real agenda of the proposal to change the broadcasting laws that govern this country? Do you think that they explained that the real agenda, which has been transparent from day one, was to allow Mr Kerry Packer to buy Fairfax and for Mr Murdoch to buy a television network? Do you think you will find that in their document 'Broadcasting for the 21st Century'? Of course you will not.

So much for the robust diversity safeguards that the parliamentary secretary spoke about. You have the venal Professor Flint of the ABA saying that he can issue certificates of exemption from cross-media ownership rules. We know the history of Professor Flint and his association with the government. I point to the cash for comment inquiry, where he was so floored that he went on the John Laws program when he was inquiring into him. I have never heard such humbug and cant.

This bill was introduced into this House 35 minutes before the House adjourned for the autumn recess on 21 March last year. I am holding Minister McGauran's second reading speech which he made on behalf of the minister. There is no mention in that speech of the real intention of the government. It was quite plain from day one that this bill was an ambit claim. I do not believe for one minute that Mr Packer and Mr Murdoch, particularly, were really interested in owning radio stations. The real agenda of this bill, as we all know, from day one was to change our media laws to allow Mr Packer to buy Fairfax and for Mr Murdoch to be able to buy a television network.

That, in my view, is slaughtering the public interest and it is handing over the future of our democracy to the two principal commercial media moguls in Australia. It is outrageous to think that the government is looking after the interests of our precious democracy by doing that. That was the purpose of my question to the Prime Minister today, and the response he gave me in relation to that question was a monumental triumph for obfuscation. I will cite three letters written on this subject. There has been so much written on this particular bill in, curiously, Fairfax newspapers. One letter is from a constituent from my electorate. I want to speak on behalf

of all Australia, because people who understand what this bill is really about do not want to hand over our democracy to Mr Packer and Mr Murdoch. In last Monday's *Sydney Morning Herald* there is a letter from Ross Butler of Rodd Point, titled 'Bang goes diversity'. In that letter Mr Butler says:

> Could the Prime Minister and Communications Minister explain the benefits of legislation to facilitate a greater concentration of media ownership ...?
>
> History shows that once media moguls acquire more market share, independent analysis and comment diminishes, output is dumbed down and the facts become the plaything of the owners.
>
> Media diversity is of concern to me and others, but obviously is not an issue with a Government so bereft of conscience when it comes to its own manipulation of information.

I want to quote another two letters that appeared in Wednesday's newspapers: one in the *Age* and one in the *Herald* again. Listen to this one in the *Age*, titled 'Keep the media moguls at bay':

> Three men—Kerry Packer, Rupert Murdoch and Kerry Stokes—already own the majority of our media. Increased concentration of media ownership … will restrict diversity on our television and in our newspapers if the cross-ownership legislation passes. The way we see the world will be even more limited to the way these moguls see the world.
>
> Already, we are engulfed by Kerry Packer's shameless cross-promotions. Take the Logies: the Logies are not our night of nights, but Kerry Packer's night of nights. Voting for the awards is conducted in his magazines, the night is broadcast on his television station, hosted by one of his television personalities and the event is held in his casino. What next? Newspapers? Radio?
>
> How can we possibly allow these media giants to control any more of our media?

(Extension of time granted) That letter was signed by Mr Tegan Mel of East Malvern. He has great insight into this issue and I congratulate him. I want to quote another letter, which was in the *Herald*, by Mr Adrian Leopardi of Rockdale, titled 'What's good for moguls not good for democracy':

> While I appreciate the efforts of Eric Beecher—

and he quotes the article—

> ("Easing cross-media laws is about commercial, not political clout" …) and Mark Scott ("The myth of the media mogul is not worth the paper it's written on", *Herald*, June 24), the reason Labor and independent senators rightly oppose the Government's media ownership changes is simple. No one has provided any evidence of any benefit to Australia of allowing the same media proprietor to own newspapers, television stations and radio stations in the same city.
>
> The Government's agenda is obvious. Grateful media proprietors will ensure strong editorial support in the run-up to the next federal election. The same kind of unanimous support, for example, the attack on Iraq received in every News Ltd TV station and newspaper worldwide. The Government's media laws mean fewer owners, fewer newsrooms and irreparable damage to Australia's democracy.

I could not agree more. I am very pleased that the member for Calare has come into the chamber today and I will give him the opportunity to talk about his first-hand experience of working for Kerry Packer. I raised the issue of editorial interference and influence exercised by the owner of the Nine Network with the Prime Minister today. I also point to the shameful editorial support of all the News Corporation papers for their boss—from North America to Australia to the United Kingdom—in relation to Mr Murdoch's position on the war in Iraq. Not one of the editors took on their boss; not one of them.

It is a truism—I learnt it from a very young age—that he who pays the piper calls the tune. It is just laughable—in fact, it is a tragedy—to think that somehow or other this

bill can separate newsrooms from their owners. Clearly it cannot, and it is very serious. I dare say that virtually all the members of the press gallery must be gravely concerned about this bill and their jobs. I regret that most of them are not able to speak out because their livelihoods are on the line; they are likely to lose their jobs. You can be sure that under this legislation, which will allow mergers and takeovers, journalists and editors will lose their jobs. You can be sure of that; there is nothing surer. You will see a further shrinking of resources with which news and information are derived and fed to the public.

The media is vital to our democracy. It is as vital as me speaking here tonight, and I am trying to voice the concerns of just three people around Australia about how serious this is. I am definitely going to do my bit over the coming months—because I can see that this is heading for a double dissolution trigger—to educate not only my electorate but everyone in Australia. I hope the people who are listening to this broadcast tonight know how serious the threat to our democracy and the public interest is with this bill. What we are doing is handing over our democracy, the future of this country and the future of our kids to Kerry Packer and Rupert Murdoch, and it has got to stop. I have been speaking out on this issue for the last 15 months, ever since this bill was introduced into this House, and I am not going to stop speaking out on it. It is shameful. Think of the firepower, the war chest behind the government when this becomes a double dissolution trigger. It is incumbent on me and everyone who sits on this side of the House—and all those members in the press gallery—to speak out against it. I am very pleased to see Margo Kingston from the *Sydney Morning Herald* here today; she is a friend of Fairfax and I would be interested to see what she thinks about it, because this is a very serious issue. The future of our democracy is at stake, make no mistake about that. It has always been the agenda of the media moguls to own both television and newspapers in the same region, notwithstanding the agenda of Paul Keating in 1987—he did a good thing to separate those arms of the media.

With those few remarks, I want to give the member for Calare the opportunity to debate this bill in the short time that we have here tonight. But before I do, I want to congratulate the upright men and women in the Senate—headed by their spokespeople Brian Harradine, John Cherry and Bob Brown—for the tremendous job they have done to stand up to Kerry Packer and Rupert Murdoch and to stand up for Australia. They stood up for the public interest and for our democracy. This bill is one of the most serious threats to the future of this country and it cannot be allowed to pass. I assure the parliamentary secretary at the table, the member for Fisher, that over the coming months we will be educating all of Australia on what the government's agenda is. *(Time expired)*

Mr ANDREN (Calare) (6.21 p.m.)—In speaking on the Broadcasting Services Amendment (Media Ownership) Bill 2002, firstly, I must comment on some of the earlier amendments. I am glad to see at least a minimum level of material of local significance being legislated for rural and regional areas, although the ABA's new requirements, certainly in the point score that they have arrived at, will mean a diminution, a lessening, of localism in the existing stations. I do not think it is going to deliver anything like what has been claimed. The government's response to these particular amendments completely betrays its motives with this legislation. The government will eventually have to lay this bill aside because it has not

achieved what it set out to do. The amendment initiated by Independent senator Brian Harradine succeeded in flushing out just what this bill was all about, that it is a Murdoch-Packer amendment.

By wisely amending this bill to preclude newspaper owners from operating a television station in the same capital city, the legislation quite rightly prevents News Ltd from picking up a television station, say, Channel 10, and the Packer organisation from also gaining control of perhaps the *Sydney Morning Herald*. That, quite frankly, would be a good outcome. The Senate in its wisdom, led by Senator Harradine, has recognised that.

I understand there was a reference in question time today to my contribution to the second reading debate on this legislation. Let me remind the House of what I said, because it is absolutely crucial to these proposed amendments. I said:

> Let me share with the House some of my media experiences that go back to the late 1960s, when I first joined Channel 7 Sydney, which was then owned by the Fairfax organisation, along with 2GB. For much of my time as a reporter, I was not based at the Epping studios; I was working out of the Channel 7 office in the *Herald* building on Broadway in downtown Sydney. Next door was the office of 2GB. Part of my duties was to wander around to the *Sydney Morning Herald* or the Sun news desk and pick up the 'blacks', as they were called—the carbon copy of the *Sun* or *Herald* news copy that had been filed by the Fairfax reporters. This was taken back to the office and sent by an early version of the fax machine to Epping, where it would become the basis for the reporter or newsreader voiceover of television stories. Other stories were rewritten and used as read-only TV stories. The same process was followed by the 2GB reporter next door; the only difference was that the bulletin was read from a radio studio within the Macquarie news office in the Herald building. The Sydney *Sun's* lead story became the Macquarie news lead story on the hour during the week, with the *Sun-Herald* and *Herald* providing the stories at the weekend. Not only was the Fairfax editorial material being used by the other two media but there was a direct and daily link between senior Fairfax executives and the news editor at Channel 7.

And no doubt 2GB. I continued:

> A few years later I worked at Channel 9, where Kerry Packer exerted a direct and at times hands-on influence on the content of news bulletins—

as a producer, I was personally involved in several of those events—

> particularly at politically sensitive times—almost invariably sensitive to conservative political interests. I can remember several occasions when Mr Packer exercised a direct influence over editorial policy. It is a nonsense to suggest that that sort of influence would not be exerted across a stable of media interests if it were deemed politically expedient, as was the case during the 1975 federal election campaign.

That is what I said in my speech during the second reading. Senator Harradine has rightly said that the key amendment is 'to protect against media proprietors having undue influence', particularly in a city, by owning both a TV licence and a newspaper in that city. The lessons of the sixties, seventies and eighties are clear. Senator Harradine has recognised that. By claiming that it will not negotiate on this central aspect of its bill, the government gives the game away. This is about restoring city media control to that which I have outlined existed in my days at Channel 7 and Channel 9.

I would also amend this bill to include regional media under the same regime. The control by a regional newspaper, invariably Rural Press, of one local television station, despite the existence of commercial radio and perhaps another TV outlet, is still too great a concentration of control over the editorial material disseminated in the viewing area. I strongly support these amendments and urge

the Senate to extend them to regional newspaper and television holdings as well.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (6.26 p.m.)—I will be quite brief. We have a motion that certain amendments be agreed to, and that is currently what we are dealing with. There will be another motion that certain other amendments be disagreed to. We will clearly be dealing with those matters after dinner. I understand that there will be a division on those particular matters.

The member for Lowe claimed that there was an agenda to enable Mr Kerry Packer to take over Fairfax and Mr Murdoch to take on television. This is clearly not the case. The Broadcasting Services Amendment (Media Ownership) Bill 2003 has very strong protections on diversity. The fact is that there is a minimum voices test; the limitation restricting ownership to two out of three generic media platforms; editorial separation requirements; the limitation of cross-media holders to one newspaper; reach rules of 75 per cent of population for any one TV network; the limitation restricting proprietors to one TV licence and two radio licences per market, and the ACCC competition test indicates this. The bill will allow second tier and regional media companies to expand. There is no evidence that proprietors exert undue influence in opinion.

The member for Calare, who is always passionate when he speaks, claimed that ABA licence conditions allow a reduction in local news services. This is simply not true. The ABA 2002 investigations of local news services followed reductions in services in many areas. The licence condition is a substantive but achievable obligation. It will require an increase in local news services by Southern Cross and in many areas by Prime. The legislation extends the licence conditions to Tasmania and all state capitals. I commend these amendments to the House.

The DEPUTY SPEAKER (Hon. L.R.S. Price)—The question is that the amendments be agreed to.

Question agreed to.

Sitting suspended from 6.28 p.m. to 8.30 .m.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (8.30 p.m.)—Before we were interrupted by the dinner adjournment, we were debating certain amendments with respect to the Broadcasting Services Amendment (Media Ownership) Bill 2002. We have dealt with the Senate amendments that I moved the House agree to, and I now move:

> That amendments Nos (16), (20), (23), (24), (42) and (43) be disagreed to.

As I indicated, by moving that we disagree to those amendments, the government is not willing to accept them. Senate amendments Nos (16), (20) and (23) prevent a cross-media exemption certificate being issued in a metropolitan licence area where the set of media operations includes a television broadcasting licence and a newspaper associated with that licence area. These amendments will curtail the competitiveness of the smaller sized media firms and new entrants, who will not be able to attain the necessary economies of scale and scope to compete effectively against the larger incumbents. Therefore, they perversely deny small and new players the key advantages of cross-media reform in the very markets where the range of voices is greatest. Consequently, we certainly do not want these amendments to be accepted.

Senate amendment No. (24) requires commercial television broadcasters operating under an exemption certificate that includes a

newspaper to establish an editorial oversight board. This is an intrusion on the freedom of commercial broadcasters to make legitimate decisions about editorial content and staffing, such as the key position of the news editor. This amendment also imposes highly intrusive obligations on the proprietor to seek an Australian Broadcasting Authority approval of their commercial objectives. This has the potential to hamper severely the ability of commercial broadcasters to run a sound and workable business.

I want to point out that Senate amendment No. (42) would introduce new powers for the ABA to recommend that commercial media outlets publish apologies or provide a right of reply where it upholds a complaint that the outlet has acted contrary to a certain code of practice. The Broadcasting Services Act 1992 already requires broadcasting industry sectors to have in place codes of practice, which must be registered with the ABA. Where the ABA finds that a broadcaster has breached a code of practice, its normal practice is to work with the broadcaster or an appropriate industry organisation to put systems in place to ensure that the breach will not recur in the future. The results of an investigation by the ABA are also published, thereby causing embarrassment to and criticism of the broadcaster concerned. The ABA has the power, if necessary, to impose binding industry standards, and this is a framework which already works efficiently. So we do not want that amendment to be accepted either.

Senate amendment No. (43) would add a further example of action the ABA can recommend that the Australian Broadcasting Corporation and the Special Broadcasting Service undertake where it upholds a complaint that a broadcaster has acted contrary to a relevant code of practice. The government believes that this amendment is unnecessary. The ABA already has adequate powers to investigate complaints and make appropriate recommendations to the national broadcasters. I ask that the House support the motion I have moved; namely, that amendments Nos (16), (20), (23), (24), (42) and (43) be disagreed to.

Mr TANNER (Melbourne) (8.34 p.m.)—I wish to speak in opposition to the motion moved by the Parliamentary Secretary to the Minister for Finance and Administration and in support of the Senate amendments to the Broadcasting Services Amendment (Media Ownership) Bill 2002 that the government rejects. In doing so I should reiterate that, in supporting these amendments, Labor nonetheless do not support the ultimate bill. We remain fundamentally opposed to the legislation, and I will turn to that opposition in a minute.

The key amendment that I wish to make some reference to is that moved by Senator Harradine, which effectively prohibits cross-media ownership between mainland metropolitan television and newspaper proprietors. The net effect of this amendment is to remove the most offensive and obnoxious aspects of the bill, but it still does not leave the bill in a form sufficient for Labor to support it. However, given that the outcome of the legislation in the Senate is uncertain, we have chosen to support Senator Harradine's amendment in order to ensure that, at worst, the bill comes through the Senate with that very substantial safeguard included in it.

We do, however, stand by our opposition to the bill. Even with Senator Harradine's amendment included in the bill, it is still deficient in a number of respects. It still has a complete open slather repeal of the current foreign ownership restrictions applying to media organisations in Australia. Although Labor are comfortable with the idea of sub-

stantial relaxation of these restrictions, we do believe that it is appropriate for some safeguards to be put in place to ensure that we do not see a wholesale move of media activity and work overseas as a result of foreign ownership restrictions being removed.

The Harradine amendment also does not remove the provisions in the legislation relating to editorial separation. The government is proposing to set in place a cumbersome and highly intrusive process which is theoretically intended to guarantee separation between the editorial processes of two media organisations that are merging. It sounds nice in theory, but in practice this approach, if it ever came into being, would constitute a potential threat to the freedom of the press. It would put the Australian Broadcasting Authority in a position where it would have the right to scrutinise the editorial processes and activities of media organisations, and it would have some very intrusive powers which it could exercise malignantly at some future time.

The government's approach is also, ironically enough, essentially window-dressing so that the editorial separation process envisaged in the legislation not only does not really achieve its stated purpose—because it would not provide genuine protection from the misuse of power by a small number of media proprietors as a result of the concentration of media ownership that would flow from this bill—but also could be misused by a government in the future to pursue and harass a particular media organisation that that government had fallen out with. That particular deficiency in the bill is unaltered.

Although Senator Harradine's amendment does remove most of the malignant aspects of the legislation, it still allows for cross-media ownership between a newspaper proprietor or television network proprietor and a major talk radio station. Labor is not that concerned about ownership of radio stations that have little or no role in the formation of public opinion, because ultimately that is what these rules are all about—protecting diversity of voice in Australian democracy, guaranteeing that we have a maximum number of voices and a maximum number of outlets so that we have a diversity of opinion in public debate. Therefore, although Senator Harradine's amendment essentially allows cross-media ownership to occur with respect to radio stations, it removes much, but not all, of the threat that this bill poses to Australian democracy. It would allow, for example, one proprietor to own 3AW and the *Herald Sun* in the Melbourne market—my home market. I think anybody who lives in Melbourne would know how influential and how powerful one proprietor owning both of those outlets would be—certainly far too powerful and influential in public debate for the health of our democratic system and diversity of public opinion. Labor continue to oppose the bill in its entirety but, as I have indicated, we have voted for Senator Harradine's amendment in the Senate in order to facilitate the removal of the most obnoxious features of the bill. When the bill returns to the Senate, Labor will be reiterating that vote. *(Extension of time granted)*

I will now turn to the fundamental issues that are at stake in this legislation—which were so eloquently outlined by the member for Lowe prior to the dinner adjournment. This legislation is ultimately about the future of Australian democracy, and it is about guaranteeing that we do not end up in a situation where a handful of people—maybe as few as two but certainly no more than three—control the vast bulk of Australia's mass media. That is the threat that this legislation poses to the future of Australian de-

mocracy. If the legislation is passed by the parliament in the form demanded by the government, that is where it will end up. The mergers are already being speculated upon, the takeovers are already being discussed in the business pages of the media, share prices have already risen in anticipation of the changes that this bill is intended to facilitate. What we are talking about here is a direct threat to the health of Australian democracy. We are talking about creating a situation where we will have maybe three giant commercial media organisations that totally dominate public debate, our political process and the process of formation of public opinion. Those organisations will get to choose who gets a voice, which issues are going to be covered and which interest groups or individuals get the right to express an opinion, put their point of view out in the public arena and reach a mass audience. That is ultimately what is at stake here. This is fundamental to the future of our democratic system.

The government wants to hand over massive power to a very small number of people. It is also trying to privatise Telstra, thereby unleashing a giant private monopoly in the telecommunications system that has made no secret of its ambitions to extend that monopoly power and reach into the media. The subsidiary threat that exists is that we will end up in a situation in this country where we may have only two massive commercial media giants, of global scale, totally dominating our airwaves, totally dominating our newspapers and effectively shutting out many alternative voices and diverse opinions—with one of those two media giants being built around a privatised Telstra. That is where government policy is heading, that is where this legislation is heading, that is where the government's policy to privatise Telstra is heading. That approach, if it comes to fruition, will be disastrous for our democracy.

Much has been made of the emergence of Internet and pay television and changes in technology that have, admittedly, substantially altered the media landscape. What is ignored is that, in spite of these changes, the process of public debate and the formation of public opinion are still completely dominated by the traditional media: television, radio and newspapers. The new media—which is emerging to play at least a niche role in our political process and will probably ultimately play a stronger role—is, in turn, dominated by the existing players in the traditional media. So there is no sign at all that we are going to have a situation in this country where market forces and technological change will produce a major flourishing of diversity and creative opportunities for new players that will change the structure of our media market. There is really no sign of that at all.

To top it all off, the government's approach to the emergence of digital television is actually designed to inhibit the number of players in the industry. They are committed to ensuring that there are no more than three national commercial television licences until the end of 2006, and they rejected the ACCC's recommendation handed down last week that that should be revisited without any public debate or consideration. When you have that kind of artificial restriction on the number of players that you can have in the most important of the media markets—the television market—it is unavoidable that there has to be some kind of regulatory restrictions on cross-ownership between that media market and the other media markets, newspapers and radio, in order to ensure that you have a minimum number of players. At the moment, we have about five or six major commercial media organisations in this coun-

try. That is a bare minimum. If this legislation gets through in the form the government wants, that five or six will shrink to three very quickly. That is too few; that is a threat to Australian democracy. I call on the government to withdraw the legislation and start fixing the real problems, which are in areas like digital television.

Mr ANDREN (Calare) (8.44 p.m.)—I rise to object to the government's motion to reject certain of the Senate amendments to the Broadcasting Services Amendment (Media Ownership) Bill 2002 and to refer my earlier comments, which were delivered in the debate on the earlier amendments, to these particular amendments. A lot has been said about growth in the media, and I have just taken part in a debate on that very matter. Growth seems to be the driving agenda in this process. As I said, there certainly will be growth under this legislation. There will be growth in influence, growth in concentration of ownership—as the member for Melbourne has just said—growth in political influence and growth in the largesse that is afforded to those in politics who comply with the wishes of the media moguls.

We only have to look at the foreign ownership regime in commercial regional radio to see that we have not only the princes of print and the queens of the screen but also the rajahs of radio in regional and, indeed, other parts of Australia. The foreign owners show no or very little interest in localism in those markets. I pointed out earlier the hubbing and spoking and concentration of common editorial processes across those radio stations and the diminution in relevance of a lot of the content. You hear community service announcements or weather reports at 11 o'clock at night telling you what the day you have just spent will be like. That is how bizarre it is and how cost cutting their processes are.

It is a fact that 80 per cent of people in this country get their major news from TV and newspapers. That is not going to change in a hurry. So how cute is it that we have legislation here that would allow the concentration of that amalgamation of TV and newspaper? As I pointed out, we will see yet again—as we saw in the sixties—the spread of editorial influence across radio, TV and newspaper holdings. The amendment to deny a cross-media exemption certificate to TV and newspaper operators owning in common those two media is to be applauded.

While other elements of these amendments—such as editorial oversight by a board—are nonsensical, so too is the claimed separation of editorial independence that is written into the original bill. There is no way in the world that you can sustain editorial independence if you have, say, Rural Press running a radio station or, indeed, a television station in country New South Wales. I cite the example of a push at the moment by the chemical companies for commercial releases of genetically modified food. An issue like that could well be driven by commercial considerations. Unless we have locally based media, reactive to local criticism and local influences and tapping into the opinion of the grassroots farmers, in this case, and others, then we do not have the truth coming through. We have a distorted message that says: 'This is going to be all right. Get used to it, because it is going to happen.' As all these amendments are being dealt with together, I certainly support them all and totally reject the government's motion to oppose them.

Mr MURPHY (Lowe) (8.48 p.m.)—The Broadcasting Services Amendment (Media Ownership) Bill 2002 is critical, because every day most Australians turn on a radio station, read a newspaper and watch a free-

to-air television station to get their news and information. That is what influences public opinion and, ultimately, affects the way people think and vote. Just before the break, I noticed Margo Kingston in the gallery and I wondered what she may have to say as a Fairfax journalist and a member of the press gallery. During the break, I went and had a look at www.smh.com.au. There are a number of very erudite pieces online about this critical issue, and I encourage everyone in this House and everyone listening to this broadcast to go to www.smh.com.au to get to the truth. Margo Kingston speaks the truth. There are three articles: 'The debate that dare not speak its name', 'Closing the door on your right to know' and 'Line-ball on media shakeup'.

Mr Slipper interjecting—

Mr Tuckey interjecting—

Mr MURPHY—Listen to this, Parliamentary Secretary and Minister. Yesterday Margo Kingston wrote:

Australia's democracy survived by 37 votes to 32 tonight, when the Senate insisted that Rupert Murdoch and Kerry Packer not be permitted to overwhelmingly control Australia's media.

Not that you'd have known it by watching the debate. Just about everyone was careful not to name the names, or the fear. It was put in terms of 'the public interest", or, as Brian Harradine, the grand old man of the Senate, put it, "to the heart of diversity and indeed of democracy".

Everyone who's anyone is scared to state the stark facts. The Labor Party is scared that the combined media power of Packer and Murdoch could destroy their chances of winning an election.

I will come back to that later. The article continues:

Media players either fear for their jobs if they speak out or are trying to position themselves to be given senior roles in the new media landscape. Despite the almost incalculable importance of the Senate debate this week for Australia, no mainstream media company except the Sydney Morning Herald has run an opinion piece stating the case against the bill.

Yet the Labor Party, the Democrats and the Greens opposed it outright. Three of the four independent Senators whose votes the Government needed wanted to pass the bill, either to allow cash strapped regional media players to bulk up by letting them own newspapers and television in the same market, or to scrape together a few extra bucks for the ABC.

But in the end, despite enormous pressure, all four independents had the courage and integrity to stop the Howard government so obscenely extending the media dominance of Kerry Packer and Rupert Murdoch into almost complete control.

Harradine's amendment was simple. No proprietor would be permitted to own a television station and a newspaper in a mainland capital city. Without that amendment, Rupert Murdoch could have bought a television network, adding to his dominance of our print media. Kerry Packer could have added Fairfax to his Nine Network. These men are the wealthiest, most powerful and most feared men in Australian life. Their power is so great that successive Prime Ministers have sought to curry favour with one or both of them in the hope that with their help they can retain government. It is very rare for either main party to reject their demands.

The cross media bill, if passed, would have seen these two men control our two national dailies, two of our three commercial television stations, virtually all our business magazines and our two preeminent news internet sites. All other media players would be reduced to picking up the crumbs from their table, and none—not even the ABC—would dare to scrutinise their business activities or their media performance. The two men would control the news cycle and the news slant (when they so wished). Cross promotion and cross packaging of advertising could crush any other player and tie up news exclusives as a matter of routine.

No government could dare offend them. No business group could dare take them on. One of the

world's most powerful media moguls and Australia's richest, most powerful man would run Australia.

The independents strongly urged communications minister, Senator Alston, to accept the bill with the Harradine amendment. It would allow foreign money to flow into our media and it would allow regional players to get bigger and more financially secure. They reminded Alston that he'd said that it was the regional players who were desperate for the bill, not the big two, who were already "entrenched".

Senator Harradine noted that without his amendment, a TV proprietor with a potential audience reach of 70 percent (Kerry Packer) could sell to a newspaper group with 70 percent of the audience (Murdoch). Such reach and power "is totally unacceptable to the public interest." He noted that the Government's own Productivity Commission reported in 2000 that it had a strong preference for more, not fewer, media players, because of "the likelihood that a proprietor will influence the content and opinion" of his publications. This was a matter of "major concern", the Commission said.

(*Extension of time granted*) We are coming to the end of this article. It goes on:

Yet Alston replied that the Harradine amendment 'goes to the heart of the legislation', and that without it the bill was dead. His only response to the fear of total dominance was that 'those not interested in change pretend that diversity of numbers are the be all and end all of the game'.

The government has lost the game, for now. But Packer and Murdoch are now desperately close to their goal, and each time the battlelines are drawn between the interests of the big two and the public interest there are an ever-diminishing number of Australians with a public voice or with any power who are prepared to take the risk of taking them on.

Indeed, we are now in the position that very few ordinary Australians were even aware what fate could await them tonight if the Harradine amendment had not passed.

But the respite could be brief. The government may set up the bill as another double dissolution trigger, meaning it could pass it in a joint sitting upon the reelection of John Howard. Or some of the independents, already shaky, could go weak at the knees.

One can't help feeling that the end game is very, very near.

I would like to pay tribute to this—I am glad you are here, Margo—because this is a paralysing insight into the serious consequences that await Australia's democracy under the Broadcasting Services Amendment (Media Ownership) Bill 2002.

Margo's boss, Fred Hilmer, could make an invaluable and lasting contribution to our democracy and the future of Australia by ringing the editors of the *Financial Review*, the *Age* and the *Sydney Morning Herald* and plastering the truth—this article—on page 1 so everyone in Australia can read it tomorrow and understand the truth and the seriousness of what we are debating here tonight.

I should raise the fact that this is being done in a week in which the government announced, conveniently, the appointment of the new Governor-General on Sunday—that occupied a lot of news space earlier in the week; the ASIO legislation was debated; and the legislation setting out the government's agenda of fully privatising Telstra was also debated. Where is this critical bill going to be tomorrow? You can bet your life it will not be on page 1 of any of the Murdoch newspapers; you can bet your life it will not be the lead story on the Nine Network or in any of the magazines or other publications owned by PBL. I come back to the first point that Margo Kingston made:

The Labor Party is scared that the combined media power of Packer and Murdoch could destroy their chances of winning an election.

That is not true, Margo. That is one thing I would take issue with. We are not afraid of the truth. This is a classic opportunity to edu-

cate Australia on the seriousness of this bill. Margo went on to write:

> Media players either fear for their jobs if they speak out or are trying to position themselves to be given senior roles in the new media landscape.

This, curiously, is very relevant for Fred Hilmer. Obviously, he is being used as a stalking horse for Mr Packer and Mr Murdoch; obviously, he is playing a double game. If Fred Hilmer thinks that he is going to be a major media player, he is wrong. As Paul Keating pointed out in his article—which has not been published in the Fairfax media—he will be carved up. But it would appear to me that Fred Hilmer is using this particular campaign as an application for a job with PBL or News Ltd. In relation to Margo's comment about this bill's 'almost incalculable importance' I could not agree more.

In relation to the enormous pressure that the Independents have been under, I have to congratulate Brian Harradine, John Cherry and the Democrats and Bob Brown and the Greens for keeping the faith. Margo made this point:

> The cross media bill, if passed, would have seen these two men—

Mr Packer and Mr Murdoch—

> control our two national dailies, two of our three commercial television stations, virtually all our business magazines and our two preeminent news internet sites.

That is the truth, Margo. I am glad you have identified that. Margo also wrote:

> All other media players would be reduced to picking up the crumbs from their table, and none—not even the ABC—would dare to scrutinise their business activities or their media performance.

That is the truth also. Who is going to outdo Mr Packer and Mr Murdoch, with their vast resources? On the mention of the ABC, the ABC has to lift its game now. The public broadcaster has been under enough pressure from Senator Alston and the government for its alleged bias. The public broadcaster, which has a wide reach, has to get the message out of the importance of the bill. I expect more from the ABC in getting the message out to ordinary Australians. (*Extension of time granted*) Margo commented:

> Cross promotion and cross packaging of advertising could crush any other player and tie up news exclusives as a matter of routine.

That is true. You can just imagine it: what was on *60 Minutes* on a Sunday night would be splashed over page 1 of the *Age*, the *Financial Review* and the *Sydney Morning Herald* the next day. You would find that all that would feed back into the other programs and magazines. No government could dare to offend the media proprietors; no business could dare take them on.

Is that the sort of democracy that we want in Australia; one where we are not game to take on Mr Packer and Mr Murdoch? I thought when people went to the polling booths on election day they voted for a party, they voted for a leader or—in a small number of cases—they voted for a local member. They do not vote for Mr Packer and Mr Murdoch. Finally, Margo makes the observation:

> Packer and Murdoch are now desperately close to their goal, and each time the battlelines are drawn between the interests of the big two and the public interest there are an ever-diminishing number of Australians with a public voice or with any power who are prepared to take the risk of taking them on.

The member for Calare made that point clear, as did the shadow minister for communications, Lindsay Tanner, and I congratulate them for that. By way of summary, because I am getting a lot of pressure on me to wind up—

Mrs Crosio interjecting—

Mr MURPHY—I would not be game to take the Chief Whip on, and I will not. I will finish in the next couple of minutes. I feel strongly and passionately about this bill. Everyone knows that I have been speaking out on this bill—even in the last parliament, because I have always expected that this would happen. We have seen that Prime Minister Howard is prepared to give the media proprietors exactly what they want. So I am saying to the people who are listening to this broadcast tonight, either in the House or around Australia, to get out of your lounge chairs, stick your head out the window and say that you have had a gutful of this—that when you go to the polling booths on election day, you vote for a party, a leader or a local member; you do not vote for Mr Packer or Mr Murdoch. I encourage you to look at the *Herald* web site—smh.com.au—and find Margo Kingston's article. She is not the only one. Earlier in the week I heard Michelle Grattan on the ABC saying that Packer and Murdoch are the big winners with this bill.

This is a very serious issue. It is terribly important. So it is incumbent on all of us who oppose this legislation on this side of the House to be very active in the coming months. Even the minister's advisers would understand how serious this is. It is for a very short-term gain to ensure the government's re-election. I think it is a classic opportunity. If we educate Australia to the agenda of the Howard government in relation to this very important legislation—this legislation that is so critical to our democracy and the public interest—I know that fair-minded Australians will clearly understand what the Prime Minister and Minister Alston are on about. I am shocked that my colleagues here—the parliamentary secretary and the minister—could support this. I encourage any member of the government to cross the floor tonight and stand up for democracy and Australia, because this bill is so serious.

I repeat: tomorrow morning, most Australians will turn on a radio station, read a newspaper or look at a free-to-air news bulletin to get their news and information, and that will affect the way they think and the way they vote. What Senator Alston says—that everyone is sitting in front of computers and getting their information from other news and information sources—is nonsense. It is a miniscule number who get their information that way. Most people get their information from traditional media sources, and that has always been the bottom line with this bill. That has always been the agenda. So much for Senator Alston. Go back and have a look at when he first spoke on this bill. Look at what Minister McGauran said in relation to this bill. They did not explain the amount of clout that Mr Packer and Mr Murdoch have or say that they wanted them to own more of the traditional media. This is a serious bill, and it must be rejected.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (9.03 p.m.)—I think all members of the House would thank the Chief Opposition Whip for her attempt to stem the rush of verbal diarrhoea from the member for Lowe. It was a valiant effort. She was not quite successful, but we certainly all admire her for her attempt to ensure the parliament is able to deal with the business currently before it so that we are able to finish at a reasonable hour. I will be brief in summing up.

I want to touch on the matter of the sale of Telstra. The member for Melbourne mentioned that there was a monopoly. Currently, I think there are some 89 telecommunications companies in Australia, and the government is ensuring that there will be adequate service to rural and regional Australia. When Telstra

is ultimately sold we will be able to pay back the balance of Labor's debt. This is a very positive initiative by the government. There are no sinister motives. We simply do not believe that there is any reason that a government should own a telecommunications company, particularly when we are the regulator. Also, it ought to be recognised that the way to ensure that there are adequate and appropriate levels of service to all parts of the Australian community, including rural and regional areas, is through regulation, not through ownership.

The member for Melbourne claimed that as few as two, or possibly three, people would be able to control all of Australia's media if the bill goes through as the government would wish it. In this matter, the member for Melbourne is fundamentally wrong. The bill contains numerous safeguards and protections to ensure the diversity of voices and opinion, many of which I outlined earlier. In particular, and this is an important point to note, the minimum voices test will ensure that at least five separately owned media groups in capital cities and four in regional areas will remain after any merger or acquisition. Labor's opposition to this bill will consign Australian media companies, including regional companies, to the information Stone Age—an eminently regrettable situation—forcing them to cut cost, reduce services and sack journalists, all at the expense of Australian consumers, particularly those in regional areas. I know the member for Lowe represents a Sydney metropolitan electorate, but he still ought to remember that people in rural and regional areas are particularly important.

The member for Melbourne claimed that the editorial separation provisions are ineffective. This is simply not the case. The government's proposed editorial separation provisions will require two or more media operations in a cross-media group to maintain separate news management, news compilation and news-gathering capabilities. These are real obligations that will mean that each operation makes separate editorial decisions and, in effect, remain as separate voices. The member for Melbourne also claimed that the bill is an open slather removal of foreign ownership controls. That is wrong. In fact, I think in his speech he even said that he did not have any objection to some input from foreign ownership. However, the Foreign Acquisitions and Takeovers Act continues to apply. I am pleased to reassure the member for Melbourne on that particular point. Some relaxation of foreign ownership restrictions would allow new capital to enter the Australian media market, and this could also potentially inject additional competition.

The member for Lowe made the statement that media proprietors influence editorial opinion to their own ends. The member for Lowe seems to be a great admirer of Margo Kingston, who, no doubt, felt this compelling desire to interject in the debate—I suppose she is nodding; no, she is not. That is good, because I suppose that she knows that she would not be in the gallery were she to do so. But the fact that the member for Lowe refers in laudatory terms to Margo Kingston's vocal opposition to this bill, and the fact that Margo is able to be vocally opposed to this bill, is proof positive that editorial freedoms are well respected.

I can see that Margo Kingston is nodding positively in the gallery, admitting that editorial freedoms are well respected. She is able to speak her mind and that is a good thing. The significant growth in new sources of news and information, such as pay TV and the Internet, highlight the growth of alternative sources of information and views. So

while I believe the members of the opposition strongly adhere to the concerns they express, they are misplaced. The legislation, as put before the parliament by the government, is the way the parliament ought to enact the legislation and I therefore ask the support of the House for my motion that amendments Nos (16), (20), (23), (24), (42) and (43) be disagreed to.

Question put:

That the motion (**Mr Slipper's**) be agreed to.

The House divided. [9.07 p.m.]

(The Deputy Speaker—Mr Jenkins)

Ayes……	73
Noes……	62
Majority……	11

AYES

Abbott, A.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.
Forrest, J.A. *	Gallus, C.A.
Gambaro, T.	Gash, J.
Georgiou, P.	Haase, B.W.
Hardgrave, G.D.	Hartsuyker, L.
Hawker, D.P.M.	Hockey, J.B.
Hull, K.E.	Hunt, G.A.
Johnson, M.A.	Jull, D.F.
Kelly, D.M.	Kelly, J.M.
Kemp, D.A.	Ley, S.P.
Lindsay, P.J.	Lloyd, J.E.
May, M.A.	McArthur, S. *
Moylan, J. E.	Nairn, G. R.
Nelson, B.J.	Neville, P.C.
Panopoulos, S.	Pearce, C.J.
Prosser, G.D.	Pyne, C.
Randall, D.J.	Ruddock, P.M.
Schultz, A.	Scott, B.C.
Secker, P.D.	Slipper, P.N.
Smith, A.D.H.	Somlyay, A.M.
Southcott, A.J.	Stone, S.N.
Thompson, C.P.	Ticehurst, K.V.
Tollner, D.W.	Truss, W.E.
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.	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.
George, J.	Gibbons, S.W.
Gillard, J.E.	Grierson, S.J.
Griffin, A.P.	Hall, J.G.
Hatton, M.J.	Hoare, K.J.
Irwin, J.	Jackson, S.M.
Kerr, D.J.C.	King, C.F.
Latham, M.W.	Livermore, K.F.
Macklin, J.L.	McClelland, R.B.
McFarlane, J.S.	McLeay, L.B.
McMullan, R.F.	Melham, D.
Mossfield, F.W.	Murphy, J. P.
O'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.
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.

PAIRS

Anderson, J.D.	Sercombe, R.C.G.
Andrews, K.J.	Fitzgibbon, J.A.

* denotes teller

Question agreed to.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and

Administration) (9.17 p.m.)—I present the reasons for the House disagreeing to Senate amendments Nos (16), (20), (23), (24), (42) and (43), and I move:

That the reasons be adopted.

Question agreed to.

TAXATION LAWS AMENDMENT BILL (No. 4) 2003

Consideration of Senate Message

Bill returned from the Senate with an amendment.

Ordered that the amendment be considered forthwith.

Senate's amendment—

(1) Schedule 7, item 1, page 69 (after line 38), after section 58PB, insert:

58PC Exempt benefits—existing worker entitlement funds

(1) If:

(a) a person makes a contribution to an existing worker entitlement fund; and

(b) the contribution is made in accordance with existing industrial practice; and

(c) the contribution is either:

(i) made for the purposes of ensuring that an obligation to make leave payments (including payments in lieu of leave) or payments when an employee ceases employment is met; or

(ii) for the reasonable administrative costs of the fund; and

(d) the contribution is made during the FBT year beginning on 1 April 2003;

the contribution is an exempt benefit.

(2) A fund is an ***existing worker entitlement fund*** if the fund accepted contributions during the FBT year beginning on 1 April 2002 for the purposes of ensuring that obligations to make leave payments (including payments in lieu of leave) or payments when an employee ceases employment are met.

(3) A contribution is made in accordance with ***existing industrial practice*** if the taxpayer or another person in the taxpayer's industry made payments in the FBT year beginning on 1 April 2002 to an existing worker entitlement fund for the purposes of ensuring that an obligation to make leave payments (including payments in lieu of leave) or payments when an employee ceases employment is met.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (9.18 p.m.)—I move:

That the amendment be agreed to.

I note that the Senate Economics Legislation Committee has examined the Taxation Laws Amendment Bill (No. 4) 2003 in detail and supports the measures it contains. During the inquiry by the committee, some concerns were raised as to the possible adverse tax implications for employers contributing to existing worker entitlement funds that do not immediately comply. In recognition of these concerns that an unavoidable FBT liability would arise for employers, the government has decided to agree to the opposition amendment which will provide a transitional period of 12 months during which FBT will not be payable by employers on payments into existing worker entitlement funds required under existing industrial practice.

A key concern of the government in agreeing to this amendment is that, as well as removing this FBT liability from employers during the transitional period, it ensures that opportunities for aggressive tax planning using these funds are not created. The government will not agree to any further extension of the transitional period. The bill provides requirements that worker entitlement funds

must meet which will ensure that the purpose of these funds is to protect and provide portability for genuine worker entitlements. The 12-month transitional period agreed to by the government will enable the Australian Taxation Office to work with the funds towards meeting the approval requirements and facilitate transition to the new regime. It will also allow the ATO to communicate with affected taxpayers, particularly small business employers, to ensure that they have sufficient information to take advantage of the FBT exemption the government has provided. I commend to the House the motion that the amendment be agreed to.

Mr COX (Kingston) (9.20 p.m.)—I thank the Parliamentary Secretary to the Minister for Finance and Administration for the government's agreement to the opposition's amendment to the Taxation Laws Amendment Bill (No. 4) 2003. We were concerned that there were virtually no existing agreements or awards which would have complied with the bill as drafted. We have reached agreement with the government on an amendment which will provide a transitional period allowing employers and unions to come to agreement on new awards and agreements which will comply with the bill.

We had a couple of other concerns about the bill. One of these related to the listing and delisting of companies. I understand that the government has given undertakings in the other place indicating any delisting of entitlement funds will be done on a basis of tax policy and not on a basis of any other policy or unrelated consideration, and that there has been some clarification of what employee entitlement funds will be able to do with their surpluses once they are fully taxed—by which I mean taxed at the top marginal rate so that there is no tax policy issue in relation to that.

This agreement will result in the industry having a reasonable period of time in which to bring its industrial agreements and awards into line with the requirements of the act. The act is a fundamentally sound arrangement which will stop people misusing things that have been described as 'employee entitlement funds' for nefarious purposes, which was becoming prevalent in the tax avoidance industry. It is a good measure, it is a good outcome and I thank the government for its cooperation.

The DEPUTY SPEAKER (Mr Jenkins)—The question is that the amendment be agreed to.

Question agreed to.

TAXATION LAWS AMENDMENT BILL (No. 6) 2003

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

Senate's amendments—

(1) Clause 2, page 2 (table item 2, column 1), omit "Schedules 1 and 2", substitute "Schedule 1".

(2) Schedule 2, page 6 (line 2) to page 7 (line 2), omit the Schedule.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (9.24 p.m.)—I move:

That the amendments be agreed to.

It is with profound regret that the government accepts this Labor amendment to omit the general value-shifting measure from the Taxation Laws Amendment Bill (No. 6) 2003. The bill as it previously stood was the way the government would have preferred it, but at times one has to bow to the realities of the situation in the Senate. That is a further

indication of why we ought to look at constitutional reform of that chamber, maybe to allow a joint sitting to do away with Senate obstructionism without the need for a double dissolution.

Mr Cox interjecting—

Mr SLIPPER—You are right—I will be quite brief. The measure would have modified the general value-shifting regime so that, as a transitional measure, the consequences arising from operating under this regime would not apply to most indirect value shifts involving services. This would have ensured that groups that consolidate during a transitional period do not incur compliance costs associated with setting up systems to identify service related indirect value shifts when those systems will not be needed after consolidation—that is, the measure would have helped to reduce compliance costs for business during the transition to consolidation.

The measure would also allow groups that do not consolidate extra time to establish systems to track service related indirect value shifts that may require adjustments under the general value-shifting regime. However, with a view to gaining passage of this important bill in this sitting, the government will agree to the amendment. However, the government is committed to the general value-shifting measure and will seek to introduce it again.

Mr COX (Kingston) (9.26 p.m.)—The opposition, again, is very pleased that the government has agreed to our amendment. I had hoped that there would be more time to consider this measure, but there was not. We obtained briefing on the Taxation Laws Amendment Bill (No. 6) 2003 at very short notice and there was not enough time to go over the value-shifting arrangement in enough detail for the opposition to satisfy itself that it would not create opportunities in the short term for tax avoidance and evasion, which is our only concern with it. If the value-shifting measure were passed, it would leave the tax office in the position of having to rely on the part 4A general anti-avoidance provisions.

Mr Slipper—Will you have a look at it in the future?

Mr COX—I understand that the government will bring the value-shifting measure back in a bill very shortly, and we will endeavour to look at it and, if we have adequate briefing and adequate time to examine it in enough detail, we may not need to send it to a committee, which was our fallback. The government has agreed to take the measure out of this bill in accordance with our amendment. There are a number of other provisions in this bill that are time sensitive—the Medicare levy thresholds, the trans-Tasman triangular imputation measure and the GST arrangements for compulsory third party insurance. These are time critical and need to be dealt with now so that taxpayers will have certainty for the whole of the next tax year and, in terms of tax returns for the Medicare low-income thresholds, will have certainty for the tax year which is now concluding. I am very pleased we are getting these measures through and I thank the government for its cooperation. I look forward to getting a full and thorough briefing on the value-shifting measure and a full discussion of it before the parliament resumes.

The DEPUTY SPEAKER (Mr Jenkins)—The question is that the amendment be agreed to.

Question agreed to.

HEALTH AND AGEING LEGISLATION AMENDMENT BILL 2003

First Reading

Bill received from the Senate, and read a first time.

Ordered that the second reading be made an order of the day for the next sitting.

HEALTH LEGISLATION AMENDMENT BILL (No. 1) 2003

First Reading

Bill received from the Senate, and read a first time.

Ordered that the second reading be made an order of the day for the next sitting.

BILLS RETURNED FROM THE SENATE

The following bill was returned from the Senate without amendment or request:

Export Market Development Grants Amendment Bill 2003

MIGRATION AMENDMENT (DURATION OF DETENTION) BILL 2003

Second Reading

Debate resumed.

Mr ORGAN (Cunningham) (9.30 p.m.)—The purpose of the Migration Amendment (Duration of Detention) Bill 2003 is to amend the Migration Act 1958 to prevent or limit courts from issuing interim orders for the release of immigration detainees. The bill has been introduced to prevent interlocutory or interim orders for the release of detainees whether or not in the context of broader judicial proceedings. Australia's refugee policy—or specific practices by the authorities—have been subject to harsh criticism by its domestic courts, legal, medical, church and human rights groups, parliamentary inquiries, international human rights organisations and United Nations bodies.

Australia is in fact becoming an international pariah due to the actions of the Prime Minister and the government. As we have seen in recent times, this government has faced a raft of legal challenges under Australian law. There is intense and ongoing legal scrutiny of its actions with regard to the treatment of asylum seekers. The government's reaction has been to further restrict the ability of the courts to make decisions to uphold human rights or in any way limit the government's already far-reaching powers to repel or divert unwelcome asylum seekers. The government's border protection and mandatory detention policies have given rise to human rights abuses such as the incarceration of children in Australian detention centres and the shameful *Tampa* and 'children overboard' affairs.

The member for Lalor and the member for Grayndler have highlighted the national disgrace of children in detention. Unfortunately, this is just one deplorable element of the government's detention regime. This bill is yet another example of the government's strident efforts to further broaden its power in this area, and to deal with asylum seekers as criminals rather than on a more humane and compassionate basis, as was done in the past and as should be done here and now.

The Migration Amendment (Duration of Detention) Bill 2003 adds four new subsections to section 196 of the Migration Act. As I said before, the purpose of this bill is to tighten mandatory detention rules to prevent courts from ordering the release of failed asylum seekers and those awaiting deportation. In attempting to pass this bill, the government seeks to remove a loophole which allows the Federal Court to rule against the immigration department detaining people indefinitely. Remember that word—'indefinitely'. The Minister for Immigration and Multicultural and Indigenous Affairs has made no secret of his irritation when the government's hardline stance on detention issues is questioned or undermined by the community, the legal fraternity or the courts.

In April this year, the full bench of the Federal Court decided that a failed Palestinian asylum seeker was being detained illegally. The 25-year-old detainee, Akram Al Masri, had sought release from detention because he wanted to return home, but his repatriation could not be arranged. The decision of the Federal Court had implications for dozens of others in detention who were fighting deportation. Twenty people have since been released by court order.

A bit of history is warranted here. In 1992 the Australian parliament, under a federal Labor government, introduced mandatory detention via the Migration Reform Act. The act commenced in 1994 and introduced mandatory detention of all so-called unlawful non-citizens. The Migration Reform Act included section 196, which provides:

> … an unlawful non-citizen … must be kept in immigration detention until he or she is:
>
> (a) removed from Australia … or
>
> (b) … deported … or
>
> (c) granted a visa.

Subsection 196(3) specifically states:

> To avoid doubt, subsection (1) prevents the release, even by a court, of an unlawful non-citizen from detention (otherwise than for removal or deportation) unless the non-citizen has been granted a visa.

The minister argues that the intention of section 196 was to make it clear that there was to be no discretion for any person or court to release from detention an unlawful non-citizen who is lawfully being held in immigration detention. In the minister's second reading speech on this legislation he stated:

> Mandatory detention remains an integral part of the government's unauthorised arrivals policy. The government needs to ensure, as a matter of public policy, that all unlawful non-citizens are detained until their status is clarified. This means that they must continue to be detained until one of three things happens: either they are removed or deported from Australia or that they are granted a visa. It is not acceptable that any person who is, or who is suspected of being, an unlawful non-citizen is allowed out into the community until the question of their status is resolved.

That is it in a nutshell. That summarises the harsh, often brutal, detention regime which currently operates in Australia. The Greens have consistently opposed mandatory detention. This policy flies in the face of the way in which Australia traditionally dealt with refugees and immigrants, especially in the post-World War II period. I think that we, as a nation, were proud of the compassion that we showed to the many people who were displaced as a result of conflicts in Europe and Asia during the post-World War II period and leading up to the 1990s.

In my own electorate of Cunningham, in the Illawarra, we had a substantial influx of refugees and immigrants, many of whom had none of the papers that the minister told us are often destroyed by asylum seekers. After the war, these displaced people were housed in hostels within our communities. Their children went to our local schools. Many of them eventually found employment locally and have added substantially to the now rich multicultural society which exists in the Illawarra and throughout many regions of Australia.

How things have changed since 1994, and especially under the Howard coalition government since 1996. Compassionate treatment of asylum seekers—who are now rather coldly termed 'illegal non-citizens'—has gone out the window, and all the forces of the federal government, administrative and legal, are being railed against them. As the minister outlined in his second reading speech, since 2002 the Federal Court has decided that the Migration Act does not prevent the court

from making an interlocutory order that a person be released from immigration detention pending the court's final determination of the person's judicial review application.

These orders mean that a person must be released into the community until the court determines their application. This is quite a clear determination—release from detention is the right and just thing to do in these circumstances—and it is comforting to know that the court is able to step in at this point. It is obvious that the Department of Immigration and Multicultural and Indigenous Affairs and the private firms managing Australia's detention centres have had trouble in implementing a truly humane regime to deal with detainees. The court's intervention is obviously needed, especially on humanitarian grounds. However, the minister is unwilling to accept the court's intervention here, as is the government. The government is unable to accept the independent umpire's decision. The government refuses to listen to the many voices of those in the Australian community who deplore its action, supposedly in their name. The minister has stated that the court's final determination of the case can take anywhere between several weeks and several months and, as a consequence:

> Where the person is subsequently unsuccessful, that person must be relocated, redetained and arrangements then made for their removal from Australia. This is a time consuming and costly process and can further delay removal from Australia.

Is the minister giving as his excuse for indefinite detention the mere fact of administrative inconvenience? Frankly, that is not acceptable in a so-called civilised society. The minister further stated:

> I understand that there have now been some 20 persons released from immigration detention on the basis of interlocutory orders. In the case of more than half of these persons removal action had been commenced, as they are of significant character concern, and the government believes their presence is a serious risk to the Australian community.

Using this kind of anecdotal evidence to justify a significant change in Australian law is unfortunately the standard of justification we have come to expect from this government. More and more Australians every day are getting wise to the government's lack of compassion and are calling into question the limits to which our border protection policy has been taken.

As I said, this bill seeks to amend the Migration Act to make it clear that, unless a so-called unlawful non-citizen is removed from Australia, deported or granted a visa, the non-citizen must be kept in immigration detention. This will apply unless a court finally determines that the detention is unlawful or the person is not an unlawful non-citizen. In defence of this bill the minister has further stated:

> The bill ensures that an unlawful non-citizen must be kept in immigration detention pending determination of any substantive proceedings, whether or not:
>
> there is a real likelihood of the person detained being removed from Australia or deported in the reasonably foreseeable future; or
>
> a decision to refuse to grant, to cancel or refuse to reinstate a visa may be determined to be unlawful by a court.

This government's record with regard to the treatment of asylum seekers—as I and many other speakers have said in this debate—is nothing short of shameful. The absolute lack of compassion and a willingness to use people seeking asylum as political pawns have come to characterise this government's detention regime as excessively harsh and regressive. As a consequence, the reputation of this nation has been tainted.

On top of this, it appears that the government's proposal in this legislation may well be contrary to, and fly in the face of, established Australian legal precedent. The government insists that its detention policies, such as the one we are considering here today, are not designed to be punitive. 'Not punitive?' I ask. The High Court in Chu Kheng Lim v. Minister for Immigration, Local Government and Ethnic Affairs 1992—known as Lim's case—said that such detention would be unconstitutional unless approved or reviewable by the courts. Local human rights commentator, Father Frank Brennan, wrote last October in an article published in *Interface*:

> There are grave doubts about the legality of the detention of those Palestinians and Iraqis who have been rejected and who have made written application to be removed from Australia but who must wait in indeterminate detention through no fault of their own. Their indeterminate and unreviewable detention is not for a migration purpose.
>
> In Lim's case, the High Court upheld immigration detention, in part because the detainee could exercise the option at any time to leave Australia … Also, at the time of Lim there was a strict time limit on detention … There is a need for periodic judicial review of post-rejection detention, permitting the release of persons on bail provided they have fulfilled health, security and identity checks and provided the court is satisfied that any person bailed is likely to be available for a return to detention immediately prior to removal from Australia.

Why then does the government not support this reasonable ruling? The 1998 white paper set out the criteria by which Immigration Act powers of detention were exercised and confirmed that the starting point in all cases was a presumption in favour of granting temporary admission or release.

Since Lim's case, any case involving indefinite detention, or detention beyond the period that is reasonably necessary for processing or deportation, may be unlawful. This is because a question may be raised as to whether the detention is reasonably capable of being seen as necessary for the purposes of immigration processing, deportation or removal. It may also raise a question as to whether the detention should be characterised as punitive. As I said, the government tells us that such open-ended detention is not punitive, yet High Court judges Brennan, Deane and Dawson found it to be so back in 1992. In Lim's case they found that:

> ... if the detention which those sections require and authorise is not so limited—

that is, reasonably capable of being seen as necessary for the purposes of deportation or necessary to enable an application for an entry permit to be made and considered—

> the authority which they purportedly confer upon the Executive cannot properly be seen as an incident of the executive powers to exclude, admit and deport an alien. In that event, they will be of a punitive nature and contravene Ch III's insistence that the judicial power of the Commonwealth be vested exclusively in the courts ...

Simply put, the government's action is punitive, and therefore the court has a role to play in dealing with this matter.

The issues in Lim's case arguably reflect the broader proposition that Australian law does not support arbitrary detention of asylum seekers. This proposition has also been extensively explored in the context of international law. Legal debate aside, the Greens principally object to this legislation on the basis that it is yet another example of this government's sheer immorality on this issue. Its willingness to detain people indefinitely for the apparent crime of seeking asylum in this country defies explanation or understanding. The Greens condemn the govern-

ment for this bill and strongly oppose it as a result of that.

Amnesty International is also one of the many voices in the community which is part of a chorus of opposition to the government's current detention regime. Amnesty is opposed on the basis that this regime is:

> … arbitrary, a form of state-controlled custody without charge, trial or independent review of whether detention is necessary in the individual case, appropriate and otherwise meets international human rights standards.

Amnesty International opposes Australia's punitive measures to deter unwanted asylum seekers by treating others harshly even though they committed no crime. Specifically, the organisation objects to the use of detention of unspecified and potentially unlimited duration without judicial review. It also objects to the automatic detention of children and to detention in conditions which may be considered degrading or inhumane. The recently released ChilOut report entitled *The heart of the nation's existence* gives numerous examples where the treatment of children in Australian detention centres is degrading and inhumane, and previous speakers in this debate have referred to that.

Such violations of human rights cannot be justified as a method of deterring potential asylum seekers. Amnesty International is concerned about a detention regime which takes no account of the effect of prolonged detention on the mental health and wellbeing of detainees. The psychological impact of detention, and particularly indefinite detention, has been well documented. The legality of mandatory detention under international law has also been widely canvassed. It has been argued that mandatory detention is contrary to the prohibition on unnecessarily restricting the movement of and/or penalising bona fide asylum seekers in article 31 the Convention Relating to the Status of Refugees.

International human rights instruments refer to detention as a deprivation of liberty. They clearly distinguish it from incarceration resulting from criminal charges or sentencing. Under its guidelines on the detention of asylum seekers, UNHCR—the United Nation's refugee agency—considers detention as:

> … confinement within a narrowly bounded or restricted location, including … closed camps, detention facilities or airport transit zones, where freedom of movement is substantially curtailed, and where the only opportunity to leave this limited area is to leave the territory.

The guidelines state that, in the view of the UNHCR, the detention of asylum seekers is inherently undesirable and that 'as a general principle, asylum seekers should not be detained'. The guidelines require that permissible exceptions to the general rule that detention should normally be avoided must be prescribed by law, and that such exceptional detention should be for a minimal period only. The guidelines also explicitly declare that detention:

> … as part of a policy to deter further asylum seekers … is contrary to the norms of refugee law.

In the Al Masri decision in the Federal Court, the full court commented:

> We are … therefore fortified in our conclusion that 196(1)(a) should be read subject to an implied limitation by reference to the principle that, as far as its language permits, a statute should be read in conformity with Australia's treaty obligations.
>
> To read section 196 comfortably under Article 9(1) of the International Covenant on Civil and Political Rights, it would be necessary to read it as subject, at the very least, to an implied limitation that the period of mandatory detention does not extend to a time when there is no real likelihood or prospect in the reasonably foreseeable future of

a detained person being removed and thus released from detention.

As was noted by Kerry O'Brien on the *7.30 Report* on 27 May, the federal government's tough strategy to stop asylum seekers arriving on the Australian coastline appears to have worked. However, the humanitarian cost is real and tragic. The *7.30 Report* went on to document the suicide of an Afghan refugee on a temporary protection visa. In his suicide note, Habib Vahedi said he feared Australian authorities and that he believed he would never see his family again. There are other examples of where this inhumane policy has had an adverse effect upon the individual refugees, whether they be man, woman or child. It appears that the government has learned nothing from these outcries by local and overseas human rights groups and that this bill is just another example of the government's tough stance on asylum seekers.

The Australian Greens ask this government and the minister for immigration: at what cost must our borders be protected from asylum seekers? Will the government stop at nothing to prevent asylum seekers from enjoying a limited amount of freedom, however briefly, in this nation? Apparently not. We have seen only too well in the last week or so the limits to which the minister will go to defend and enhance the current detention regime, especially with regard to the children in detention. In summary, this is a shameful piece of legislation. The Australian Greens condemn this bill and we condemn this government for its continuing inhumane treatment of asylum seekers.

Mr KERR (Denison) (9.50 p.m.)—I begin my speech on the Migration Amendment (Duration of Detention) Bill 2003 by indicating that the member for Cunningham has covered many of the issues that concern people both within and outside this House in relation to the potential application of a detention regime that cannot be brought to an end by the effluxion of time if it proves impossible to repatriate a person who is so held. It has become something of a myth that a regime of mandatory detention was introduced by the Australian Labor Party that was indefinite in its terms. That simply is not true. Although I objected to the regime when it was first brought into existence, it is important to distinguish the initial regime from that which applies currently.

Firstly, the regime that was put in place by the Australian Labor Party was time limited. It was obligatory to release a person from detention after—I think, from recall—the maximum period of 273 days. Whilst that period was in a sense suspended under some circumstances where the action of the person themself in detention contributed towards its extension, the practical impact was that it was impossible to conceive of a person being held indefinitely. Nothing of a consequence of years and years and years, with a potential life imprisonment, as it were, was conceivable.

Secondly, it was the case when I visited the detention centre that was then in existence at Port Hedland that the whole regime was completely different in its application. The centres had been established for some time—but under the previous government—and the kids attended the local schools. There was a large integration of the community with the people, who were certainly formally in detention but not subject to the kind of regime that they are now confronted with.

So we have not just an abuse of the language in saying that there has been a continuation of policy and that any person on the Labor side who objects to aspects of it is in some sense being hypocritical, but a distor-

tion of the history. It is very important to get that on the record on a continuing basis, because we hear this continuing traducing of the former government as if it introduced the same measures that this present government is applying.

Coming to the particular matters, the most significant of the implications of this legislation is, I suspect, unintended—I hope unintended—by the Minister for Immigration and Multicultural and Indigenous Affairs, because it would address not only the issues which he has addressed publicly but also the Al Masri case, which is a decision later in time than the VFAD decision—the alleged trigger for this particular piece of legislation. But I will address both of those issues. The minister says that it is necessary to constrain the courts, who would otherwise, by way of an interlocutory determination, release somebody who the act currently says must be held in detention. I am told, and I understand, that the trigger for this was a particular case, VFAD—or, in extended terms, Minister for Immigration and Multicultural and Indigenous Affairs v. VFAD. The name of that person obviously is not recorded because, under the current legislation, it is not authorised for the courts to publish the names of individuals—another part of the dehumanisation process that regrettably infects the whole way in which this act is now administered.

In the VFAD case, what appears to have occurred is that a man who had made an application for refugee status had the matter reviewed by the Refugee Review Tribunal and, in the course of discovery, found that there had been a determination made that he was in fact a refugee. So the issue came before the Federal Court on the basis that the processing of the determination had been completed and the decision had been finalised but, because of certain administrative steps that the minister took so that there would be further reconsideration in respect of that class of persons, an administrative decision had been taken that it would not implement the actioning of a decision so made.

I put it in those terms only because the court put it in those terms. It found that there was a prima facie case, or substantial grounds, to believe that that in fact was the case. The minister was contesting at the time, and I assume he is still contesting, the legal status of that determination and whether or not it was a final determination of the person's refugee status. But, on the papers at least, it appeared to the court that this person had gone through all the assessment processes, had been looked at and assessed as having qualified as a refugee, all the papers had been completed, and the minister or the minister's department had illegally and wrongfully refused to act on that determination and thought it appropriate to keep him imprisoned without lawful reason.

It is not surprising that a Federal Court might, in those circumstances, say that that is not a course that it could contemplate allowing to pass. The government says, 'What a terrible thing. We want to be able to keep such persons behind bars, behind razor wire.' These are people who, on the prima facie evidence accepted by the court—subject, of course, to legal argument by the Commonwealth, but obviously a basis which the court, without more being put by the government, is prepared to act on—have been assessed as genuine claimants for refugee status and, therefore, should be entitled to our protection. But the minister says, 'No, this parliament has to turn its back on that person and, in fact, the best place for that person to be right at this moment is behind the razor wire.'

I find that absolutely disgraceful. The minister gingers up the arguments he puts by

mentioning some other classes where he asserts that there may have been some difficulties. But the Federal Court, since 1992, has had occasion on a number of instances to deal with cases where it has released people in various visa classes where it seemed appropriate to do so, once it reached a state of satisfaction that it was more probable than not that ultimate relief would be granted and in that interim it would be unfair to hold such a person in custody.

Again, the minister comes to us and says, 'There is some urgency in this'—without disclosing any such urgency; without disclosing one instance that would suggest that this parliament should consume itself in haste to respond to what, thus far, appears to be a pretty thin argument that we should act at all. He says that there may be some instances where a person poses a threat to Australia because they have a potential criminal record or are a security risk and that, therefore, we must address it.

The shadow minister has responded to that and has said that the opposition will not close its ears to a narrow, specific and reasonable request of the courts, if they are not thought to be guiding themselves inappropriately in relation to these matters. If there is a genuine matter that can be narrowly so defined, we would certainly facilitate looking at that. But we are not going to be part of the further denigration of persons who have pursued their lawful rights in court. We do not believe that Federal Court or High Court judges frivolously release people from detention under law. I mentioned that the VFAD case was the trigger for this particular piece of legislation—legislation which, in my submission to the House, ought to be dealt with with the contempt it deserves. The detainee in the VFAD case should be given far greater respect than that shown him in the legislation that wishes to confine him to prison while the minister says that his apparent entitlement to refugee status ought not to be recognised.

There is another aspect to this legislation, which I suspect is unintended but fear may not be—that is its application to the Al Masri type of situation. Al Masri was a man who came to Australia seeking refugee status and who failed. Some in that situation pursue extensive appeal processes, as they are entitled to do. Obviously, circumstances where people might seek some review of an administrative decision are not ones that this minister will give any concession to. Nonetheless, in his case Mr Al Masri said, 'I accept the determination that has been made with respect to my failed claim. I can't languish behind razor wire. I'm prepared to go home. Not only am I prepared to go home but also I'm prepared to do everything possible to facilitate that.'

Unfortunately for him, the minister found that it was difficult to facilitate his return. Through no fault of this particular man, but because he was a Palestinian, it was very difficult to persuade any country to admit him through their territory so that he could return home. The Israeli government was not prepared to allow his return through Israel, and various other regional governments at the time proved to be intractable also. So there sat Mr Al Masri. If you look at the full Federal Court decision you will see the circumstances in which Mr Al Masri sat there. You will see recounted the way in which his continuing detention obviously ate away at him and caused him extreme distress, hurt, difficulty and trauma. You would not be surprised at that. He had accepted that his refugee status had been refused and he wanted to be returned, but that could not be facilitated.

After a substantial period of time Mr Al Masri sought legal advice, and his advisers

took the matter to the Federal Court. Ultimately, a full court of the Federal Court of Australia—three judges—unanimously decided that his detention was unlawful on the basis that the member for Cunningham has described: the Lim principle; that is, the power that exists under the Australian Constitution in relation to the detention of persons who are aliens extends to their detention preparatory to their removal. But, once it is no longer possible to reasonably anticipate that they will be removed, it becomes arbitrary detention. Thus, the court released him. The full court's decision was not necessarily based on the Constitution, though, because they found that the act itself, properly construed, did not contain the implication that it authorised indefinite life imprisonment for the sin of being a failed asylum seeker who had placed themselves in a circumstance where they wish to be returned but could not be.

Was it an extraordinary situation in which the court did that? I think not. Is it to be conceived that somebody who perhaps is stateless, or who comes from a country that is in a state of turmoil or warfare such that no government is prepared to accept them back, as a consequence may live out the rest of their life in detention in Australia facing a length of imprisonment that we do not reserve for murderers in this country? So, plainly, the court did what it should have done. It said that the statute, properly construed, did not have that implication and that the Migration Act was subject to some reasonable restraint. It said that the provisions that sought to exclude courts from reviewing the detention of persons would be interpreted as not applying when the detention was unlawful. Once it had become unlawful in the case of Al Masri, of course, they ordered his release.

However, the Migration Amendment (Duration of Detention) Bill 2003 puts an interesting provision in. The courts said that, if the parliament really intended that a person would live out the rest of their natural life behind razor wire as a prisoner of Australia—having come here, thrown themselves on our mercy and failed as an asylum seeker, but then said that they were prepared to go home, and had facilitated it and done everything possible to cooperate, but could not be returned—it would have said so plainly. So what does this provision do? It says:

To avoid doubt, subsection (4) applies:—

that is the provision that links back to the direction that a court is not to release an asylum seeker—

whether or not there is a real likelihood of the person detained being removed from Australia under section 198 or 199, or deported under section 200, in the reasonably foreseeable future;

If we pass this legislation, it is open, on a very reasonable construction, to do what the full Federal Court of Australia thought would be unthinkable for any parliament to do, and it may be—and I believe would be—constitutionally invalid. The minister, I understand, does not contend that it has that effect. But I am damned if I know why it is there if it is not intended to have that effect. If you look at the way the sections of the act are constructed, section 196(1) says that a person in detention 'must be kept in immigration detention until they are removed from Australia, deported or granted a visa'. Section 196(3) says:

To avoid doubt, subsection (1) prevents the release, even by a court, of an unlawful non-citizen from detention (otherwise than for removal or deportation) unless the non-citizen has been granted a visa.

The full Federal Court said that provision could not be interpreted to mean that once the

detention became unlawful the person could be detained. But now we discover that, to avoid doubt, that provision is intended to apply to a circumstance where there is no reasonable prospect of the person being deported in the foreseeable future. I do not know why the minister says that he did not so intend this. It may be that there is some possible construction of this act which I am not able to understand—which would mean that he understands it not to have that application. But on its face it does so, in terms of the explanatory memorandum it does so, and indeed in terms of the minister's second reading speech it appears to do so. So if it is not intended to do so, it is certainly playing fast and loose—dangerously fast and loose—because it appears on the books as if it is intended to do so; and it would seem that a court so confronted would be presented with a situation which was anticipated by that full Federal Court when it said, 'If you really want to keep a person there forever, for the whole of their natural life, you have got to say so bluntly.' This appears to say so bluntly.

Let us not let this through advertently or inadvertently. Whether it is there due to negligence or intent, whether it is due to deceit that the minister failed to mention it or whether it is simply failure to advert to the terms of the legislation, I do not know; but let it not stand. Let us not, as members of parliament, be stained by a situation where we would imprison people in such circumstances, for the whole of their lives, for the sin of having the temerity to have made a plea for refugee status—and failed.

Mr MOSSFIELD (Greenway) (10.10 p.m.)—I rise to oppose the Migration Amendment (Duration of Detention) Bill 2003 and to urge honourable members to support the second reading amendment moved by the shadow minister for population, immigration, reconciliation and Indigenous affairs—the member for Lalor. This is another in a long line of Orwellian-titled bills. The government are becoming proficient in the use of the 'newspeak' language created by George Orwell in his novel *Nineteen Eighty-Four*. They have certainly done their homework. If they are using newspeak to title this bill, then I will use newspeak to oppose it. This bill is 'doubleplusungood'.

Any average Australian citizen reading the title of this bill and not knowing the nature of the newspeak government we have, would assume the bill—which is called 'duration of detention'—has something to do with limiting the amount of time someone could spend in detention. This is not the case, of course; newspeak does not work like that, and the way to demonstrate that is to quote the three party slogans of *Nineteen Eighty-Four* 'war is peace', 'freedom is slavery' and 'ignorance is strength'. You may also like to add 'day is night', 'black is white' and 'up is down' as other examples of the power of newspeak. In other words, take the phrase and turn it around 180 degrees.

When the government failed a number of times to get its unfair dismissal legislation through the parliament, it went away, learned all about newspeak and reintroduced the exact same bill under the title 'fair dismissal bill'. The parliament was not fooled, but it did show the government's new strategy, which is more about spin than substance. What this bill should be titled, and would be if the government used oldspeak, is 'indefinite duration of detention', because what this bill does is take away the right of the courts of our nation to release a detainee.

Essentially under this bill, a detainee could face life imprisonment for having his or her refugee status denied. Of course, the government will say that is not the intention of

the bill and I am simply scaremongering. It might not be the intention of the bill, but it could very well be a consequence—albeit unintentional. To understand this, one must look at the text of the proposed legislation. The bill amends section 196 of the Migration Act by adding subsection (4) and subsection (5). Subsection (4) basically says that detention is to continue until a court makes a final determination. The problem really arises in subsection (5), which states:

To avoid doubt, subsection (4) applies:

(a) whether or not there is a real likelihood of the person detained being removed from Australia under section 198 or 199, or deported under section 200, in the reasonably foreseeable future; and

(b) whether or not a visa decision relating to the person detained is, or may be, unlawful.

Subsection (5) shows the government's real agenda. It says, 'We don't care if the visa decision is unlawful; you'll stay locked up.' It says, 'We don't care if there is no chance of you ever being removed or deported; we'll keep you locked up.' That is, by any definition, indefinite detention.

Labor does not intend to limit the ability of the courts to order the interim release of failed asylum seekers. These releases are only ordered for very long-term detainees in circumstances where there are compelling arguments that these detainees are not unlawful non-citizens or where there is credible argument that their detention has become unlawful. When such releases are being ordered, stringent reporting conditions are being required. Given this and the very low number involved, it is not reasonable to suggest that there is a major absconding risk.

It is easy to see the value of Labor's asylum seeker policy. Under Labor there would not need to be a case-by-case court assessment for long-term detention cases, because the asylum seeker claims processing review committee would have already independently reviewed each matter. While we have full confidence that through our legal system criminals will not be released by the courts into the community, Labor are prepared to deal quickly with an appropriate proposal to ensure that detainees who would be a threat to the public are not released.

Why are we debating this bill today? The Minister for Immigration and Multicultural and Indigenous Affairs claims it is an urgent bill desperately needed to close a loophole opened by the Federal Court when it granted an interim order to release a detainee. But we must ask the question: when did the Federal Court make the decision? Another question is: will this bill be passed tonight anyway, or will it have to wait until we resume later in the year? Nevertheless, the decision which requires urgent attention was made in February 1992. There was another such interim decision made by the full bench of the Federal Court some seven months ago, on 9 December 2002, but it was by no means a precedent-setting decision. As I said, the first such order from the Federal Court was made in the case Minister for Immigration, Local Government and Ethnic Affairs v. Msilanga in February 1992. So this is not a new loophole, as the government would have people believe.

If the minister were indeed spurred into action by the December decision and if it were truly that urgent, then surely the minister would have had the bill drafted—it is, after all, only a page long with two sections—and ready for introduction on 4 February this year, the first day of sitting. If it were truly urgent, as the minister claims, it certainly would have been introduced long before last Wednesday. The reasons given for the urgency of this bill simply do not hold water; they are as leaky as a 'SIEV'.

We believe the real reason this bill has been rushed into this place and to debate is the minister's growing anxiety about the cash for visas scandal closing in on the truth. This bill is a smokescreen—a fairly blatant and quite clumsy attempt to shift the focus of both the media and the public to border protection issues, the main plank in the government's political war chest. I do not think it will work, but I suppose a desperate minister has to try something.

The crackdown on people-smuggling has finally been exposed. The Liberal Party were missing out on their slice of the action. After the debate this week, the perception clearly is: why pay a people smuggler $30,000 when for a $10,000 donation to the Liberal Party through the right contacts you can get your visa with less hassle? This reminds me of a scene from the movie *Casablanca*. The Peter Lorre character, Ugarte, obtains visas for desperate people on the black market. Explaining his motives to Humphrey Bogart's character, he says:

But think of all those poor refugees who must rot in this place if I didn't help them, but through ways of my own I provide them with exit visas.

Bogart's character says:

For a price, Ugarte, for a price.

In reply, Peter Lorre's character says:

But think of all the poor devils who cannot meet Renault's price. I get it for them for half. Is that so parasitic?

Bogart's character finishes with:

I don't mind a parasite. I just object to a cut-rate one.

These are very serious issues and we cannot treat them lightly. At this stage, the minister and the government have not really given clear answers to the cash for visas controversy.

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Greenway would be well aware that if he wants to make aspersions against a member in this House he must do so by substantive motion.

Mr MOSSFIELD—I am relating the facts that have been fully canvassed in this parliament during this week and I do not—

The DEPUTY SPEAKER—I am sorry; you cannot do so by innuendo or any other way. If you want to make aspersions against a member in this place, you do it by substantive motion.

Mr MOSSFIELD—I do not think I am introducing anything new into this debate. These are issues that have been fully canvassed and discussed—

The DEPUTY SPEAKER—This afternoon was an indication of how it can be done.

Mrs Irwin interjecting—

The DEPUTY SPEAKER—If the member for Fowler wishes to speak next, she will be quiet now.

Mr MOSSFIELD—These are serious issues, and there will be plenty of opportunities for the minister and the government to reflect on what I have to say and respond in the appropriate terms. We believe this bill is designed to deflect attention from the minister, the member for Parramatta and the dodgy donations to the Liberal Party that have led to visas and citizenships being granted to shady businessmen.

The DEPUTY SPEAKER—The member for Greenway will understand that if he continues in that vein I will sit him down. He is flouting my ruling.

Mr MOSSFIELD—Thank you, Mr Deputy Speaker. I see that the issues that have

been fully canvassed in this parliament during the week—

Dr Stone—Mr Deputy Speaker, I rise on a point of order. I believe, on the basis that there has been a slur against the minister, that the member for Greenway should be asked to withdraw his statement.

The DEPUTY SPEAKER—I do not uphold the point of order. I have ruled on the substance of the speech.

Mr MOSSFIELD—I will relate a few facts that are causing us some concern. People can then draw their own conclusions. I will give a couple of examples. There is the example of Mr Bedweny Hbeiche. Mr Hbeiche applied for a protection visa. It was denied once. He appealed to the Refugee Review Tribunal. It was denied a second time. He appealed to the Federal Court. It was denied. He appealed to the minister. It was denied. He appealed to the minister a second time. It was denied again.

We have all had experiences with immigration matters. I have to be honest and say that I have had what I believe are some great successes. If you look at the case of Mr Hbeiche, he appealed, one way or another, five times—including twice to the minister—and then he was finally granted a visa. I will not explain that further. Even in my own experience, once the minister rejects the appeal that is basically the end of the story. That has been my experience from my electoral office. I normally accept the fact that once the minister makes his decision then there is no further avenue. For that reason, we believe there are questions to be raised.

With regard to what has happened in the issue of donations to the Liberal Party—and I address this in general terms—we recognise that all political parties hold fundraising functions. It is also true that as a politician making decisions to assist a person with an electoral matter—whether it be immigration or Centrelink—if you know the person personally then you are able to present a much stronger case. The facts of life are that, if a person wants to gain a favourable decision from a minister, they know that it would not do their case any harm to be seen at a Liberal fundraising function. We believe that the Liberal Party want to Americanise our health system, with the destruction of bulk-billing and the introduction of a user-pays system. They want to Americanise our education system, with $100,000 degrees and user-pays. There may be a danger of their trying to Americanise our democracy by introducing a user-pays system.

A congressman in America needs to raise of the order of $10,000 per week for his or her election campaign. The influence of those with money to donate and those in the position to organise fundraisers is huge in America. I do not believe—and I do not think you do, either, Mr Deputy Speaker—that we want to go down that track. However, if I was able to develop my full story, which you have prevented me from doing, you would probably agree that we are heading down that track.

While 99 per cent of the people who attend political fundraisers are either party supporters or personal friends of the minister or members, the difficulty is weeding out the criminal opportunists like Dante Tan who may make large donations to obtain political favours. I believe it shows what contempt we as politicians are held in in some people's minds that they think that favours can be bought by making political donations. But then who was it who said, 'You can't trust a politician'?

I am opposing the amendment moved by the government and supporting the amend-

ment moved by the opposition. I can see that there are very serious issues involved from a legal point of view and in the process of how visas are granted. We should have the opportunity here of saying what we think. We can go elsewhere and talk about things, but if we bring our story to this House we should be allowed to give it; to spell it out. It seems to me that a cap should be placed on donations to political parties in the kinds of circumstances we are talking about; otherwise, the general public will be of the view that they can get the best government money can buy.

Mrs IRWIN (Fowler) (10.27 p.m.)—The Minister for Immigration and Multicultural and Indigenous Affairs has introduced the Migration Amendment (Duration of Detention) Bill 2003 in a great rush and no doubt would like to see it passed in the shortest possible time. But he has not outlined any reason for the urgency. He refers to the fact that 20 persons have been released and more than half of those released from detention are of, as he puts it, 'significant character concern'. But the real reasons for the push to get this bill before the parliament have more to do with the minister wanting to get the focus back on the government's agenda than dealing with some urgent problem. The minister gives this away in his second reading speech:

> The bill amends the Migration Act to make it clear that, unless an unlawful non-citizen is removed from Australia, deported or granted a visa, the non-citizen must be kept in immigration detention.

Just in case you missed the meaning of that statement, the minister went on to say:

> The bill ensures that an unlawful non-citizen must be kept in immigration detention pending determination of any substantive proceedings, whether or not: there is a real likelihood of the person detained being removed from Australia or deported in the reasonably forseeable future; or a decision to refuse to grant, to cancel or refuse to reinstate a visa may be determined to be unlawful by a court.

So that is the minister's approach: no exceptions; no special circumstances. No exceptions, even for a case such as Mr Al Masri, a failed asylum seeker who was prepared to return home but, due to the situation in the Middle East—he is Palestinian—was unable to do so. If it was not for the Federal Court, Mr Al Masri may have been condemned to life behind razor wire in a detention centre for years to come.

That is always going to be a problem with mandatory detention laws. They do not account for the different circumstances that they are applied to each day. But the minister seems to think that section 196, which was included in the Migration Reform Act 1992, should not allow exceptions. The minister says that the Federal Court has indicated that, if the parliament wishes to prevent a court from ordering the interlocutory release of a person from immigration detention, it must make its intentions unmistakably clear. As the minister says, this bill is intended to achieve this.

But which goal is it achieving? Is it achieving the goal of the Federal Court, or is it achieving the goal of the minister to preserve without exception the regime of mandatory detention? I think the Federal Court has made it clear that closing this last little chink in the Migration Act and making mandatory detention apply in every case is something for the parliament to decide in the clearest terms. I do not think the Federal Court is demanding that we close the gate completely. I think the Federal Court is asking us whether we really know what we would be doing if we closed off this one last chance for freedom for the small group of people who are the exception to the rule that

section 196 applies. The minister concluded by saying:

> ... the bill implements measures to ensure that the parliament's original intention in relation to immigration detention is clearly spelt out and the integrity of the act is not compromised.

But I am not so sure that the minister can speak for the parliament's original intention. I very much doubt that the parliament envisaged the long-term detention of children that we have seen.

That brings me to the amendment proposed by the opposition, which seeks to bring attention to the plight of children in long-term, high-security detention. When I have visited detention centres and seen children playing behind the high razor wire fences, I have had to remind myself that I am in Australia and that I am an Australian. I never thought I would see the day when an Australian government imprisoned young children in the way that this government imprisons young children. The representatives of the company managing the centre point out—and they have pointed out to me—the playground equipment, and then they show you through the classroom. They may be better than the facilities that those children left to come to Australia, but there is always the shadow of the razor wire. While a visitor knows that at the end of the tour they can pass through the gate and go out into the world, the children behind the razor wire know that they cannot.

I have seen reports that show the effect on children and families. I have read the cases of children likely to suffer long-term damage as a result of their detention. It makes me ashamed to be part of a nation which imprisons children. There are alternatives, as I have seen in Woomera. But they can only be regarded as suitable if families can be kept together—and it is so important to keep families together. With the closure of Woomera, the fathers have been shipped off to Baxter and other centres, leaving their wives and children hundreds of kilometres away. The minister tells us that there are consultations under way for the development of alternative accommodation at Baxter, but at this rate it will be years before that reality is reached. In the meantime, mothers and their children have the choice of living outside but away from their husbands and fathers or with them behind the razor wire. What a choice to make. But this minister would not allow the courts to have a role in deciding the fate of these families.

So far as I can tell, the parliament did not consider the possibility of the circumstances we saw—and it has been quoted a number of times tonight in a number of speeches—in the Al Masri case. If it did, it would be reasonable to expect that the parliament assumed that the courts would have a role in such a case, as in fact occurred with Al Masri. But, even then, that has to be read with regard to the limits on the period of mandatory detention that were applied. Without that safeguard, the Migration Act would allow not only mandatory detention but indefinite mandatory detention. You could say it allows for life imprisonment for people who have not committed a crime. I do not want to sound too dramatic, but being locked up indefinitely, not knowing from one day to the next when you can be expected to be released, not knowing when you can get on with living the rest of your life, is a very cruel form of punishment. I do not think it was ever the intention of this parliament to impose such a regime.

The minister states that, of the 20 persons released on these orders—and I note that 20 is hardly a large number—more than half of these persons are of significant character concern and the government believes their

presence is a serious risk to the Australian community. I can only assume that this is the reason for rushing this bill into the parliament. The minister has known since last year that the legislation had to be tightened if he wanted a policy of absolute mandatory detention. And now we have at least 10 people of what the minister describes as 'significant character concern'. That could mean they are anything from axe murderers to shonky business people, but we are to understand that these people are loose in the community and that this change is urgently required to prevent more people of significant character concern from joining them. What we can be sure of is that this will always be a difficult group to deal with.

I know from representations made to me by Asian communities that there is concern for non-citizens who have been convicted of serious offences and face deportation after they have served their sentences. In some cases the individuals concerned came to Australia as very young children and through various circumstances did not take up the opportunity to take Australian citizenship. While there is no forgiveness for the crimes they have committed, there is some sympathy for the fate that awaits them when they return to a country which they left as small children. As convicted criminals they cannot expect a warm welcome from their homeland. It is not surprising that in some instances the homeland they fled from as children does not want them back.

So we have a situation where people who have served their prison time for offences continue to be held in custody awaiting deportation. While it is fair to say that there is little sympathy for these people, it is unjust for them to be punished beyond the sentence handed down. I am sure that is not the only reason but I can believe that it is a factor contributing to the very high proportion of people from Vietnam, Cambodia and Laos taking Australian citizenship now. And I know that those communities hold concerns for people deported to those countries.

Whichever way you look at the situation, we are only dealing with a small number of cases and I would think that the parliament has the right to a fuller explanation of the reasons for this bill and, more to the point, the reasons for the urgency of this bill. Can it be that the minister has been feeling the heat of revelations that he and his Liberal colleagues have benefited from donations which mysteriously led to approvals for visas? The minister has gone back to his familiar role of attacking refugees. That is the formula that has worked in the past; why not try it again? When your political stocks are down, why not blame the refugees? Why else would the minister be in such a rush to get this bill through the parliament? All this is for a dozen people of, as the minister says, 'significant character concern'.

The minister says that the reason for the bill is that where the person's application is unsuccessful, that person must be relocated, re-detained and arrangements made for their removal from Australia. This assumes that those persons immediately failed to comply with stringent reporting conditions. And the bill does not specifically address the issue of release orders for criminal deportees. Labor would be glad to cooperate with the government to ensure community safety. But when you weigh these factors against the harsh realities of long-term detention, surely we should err on the side of compassion.

It seems the starting point for the minister's approach is that detention is nothing more than a minor annoyance. A few years staying at taxpayer expense in five-star luxury in one of the minister's detention centres.

I can recall a headline in the Sydney *Daily Telegraph* which reported that detainees at Woomera were very fortunate because they had airconditioning. The article went on to say that people would be envious of the conditions at Woomera. I have had the chance—I cannot say it was a pleasure—to visit almost all detention centres in Australia. I served on the joint standing committee which produced the report titled *Not the Hilton*, which examined conditions at detention centres. I can tell you the title did not begin to describe the conditions.

In more recent times I have visited Woomera. I have seen the centres. I have read the reports on the effect of long-term detention on detainees and I can say this: there must be some recognition of the effects of long-term detention. And there must remain a role for the courts to consider the small number of cases where we know that the risk of harm to the detainee is greater than the risk to the community. The minister seems so focused on maintaining what he calls the 'integrity of the system' that he is prepared to overlook the harm to individuals. But that is a role for the courts—the defenders of individual freedoms—which protect each of us from the tyranny of governments. So we are left to wonder why this minister is so frantic in his efforts to plug the last gap in section 196. There is no good reason for his behaviour. Again his speech on this bill gives us a small glimpse at his reasons. He says:

> The government needs to ensure, as a matter of public policy, that all unlawful non-citizens are detained until their status is clarified.

There are two key parts to that: a matter of public policy and unlawfulness. That is what this bill is all about: the minister needs to be seen to be doing something about those unlawful non-citizens. When the minister's integrity is under attack he reverts to form. He drums up a problem of serious public alarm: the risk posed to community safety by a dozen or so people of significant character concern. And he solves the problem: stop the courts from carrying out their important role of defending the rights of individuals. As I said, he reverts to his true form.

It means nothing to this minister that dozens of people may be detained. Or should I say 'imprisoned'—because that is what it is? People would be imprisoned as a result of a decision which in the terms of the act 'is, or may be, unlawful'. But we have come to expect that sort of thing from this minister. As we have seen over the past few years, this minister shows fewer and fewer of the human qualities that many once saw in him. He has become the shallow bureaucrat following orders—without understanding, without compassion and without a soul. I can picture the minister for immigration waking up every morning, taking his Amnesty badge out of the top drawer and putting it on his coat lapel. Well, Minister, you do not deserve to wear the Amnesty badge and you should return it to Amnesty International.

The SPEAKER—Order! The member for Fowler must understand that the present remarks—

Mr Hockey—Sit down—that's just grubby.

Mrs Irwin—Look at what he's doing!

The SPEAKER—I will deal with the member for Fowler and the Minister for Small Business and Tourism simultaneously.

Mr HATTON (Blaxland) (10.45 p.m.)—Throughout this year and last year, a number of significant bills have come before this House dealing with both broad questions of immigration and the specific issue of immigration detention. A couple of those bills have attempted—some would argue tangen-

tially; others would argue as part of their prime purpose—to deal with the question of the validity of holding people in detention, whether that period of detention is lawful or unlawful, and to define that more closely in order to eliminate doubt and tighten up the system. Such bills—whether brought in by this government or by the former Labor government—have essentially been responses to impacts on the system. Our response to the Lim case in 1992, which has been referred to throughout this debate, gave rise to the fundamental notion and the adoption by the Labor government of mandatory detention.

Whoever is in government in this country has a bound duty to ensure that the government controls Australia's borders efficiently and effectively but also humanely and sensibly. This is a world in which we now have 25 million or 26 million people claiming to be refugees. In the past couple of years we have seen the refugee problems which have been endemic in the most underdeveloped areas spread, particularly through people smugglers running people from Southern China into the United States and Canada. Australia also had this problem when Labor were last in government, with people coming from both China and Vietnam. Whilst we were in government we solved the fundamental issues in regard to those particular smuggling programs.

The world has seen the refugee problem become broader, deeper and more difficult ever since the great waves of attempted migration from Albania to Italy. As Europe has become enmeshed in the problem of dealing with waves of refugees, harder and tougher regimes have been imposed in Britain and in continental Europe. Ten years ago, only three Western countries had a very significant problem in dealing with refugees: Australia, Britain and Canada. The problems Australia had in dealing with refugee programs were greater than those of other states simply because we recognised that we had a civic duty, as members of the world community, to undertake to absorb refugees above any natural quota that other countries might have sought to impose.

Under the aegis of the United Nations we had a bounden duty to do our part as a country that accepted immigrants—a country founded on immigration since white settlement in 1788 but renewed, refreshed, reinvigorated and extended in the post World War II period by a deliberate policy of encouraging migration in order to develop more fully. Whether the government was conservative or Labor, we realised that it had a concomitant duty to run a refugee and humanitarian program that was adequate to deal with the world's wider problems. Our postwar migration program was largely refugee and humanitarian, focusing particularly on refugees from Eastern Europe and Europe proper, which had been ravaged by the greatest and most savage war that the world had then seen. Modern Australia is built on people who came here as refugees and linked, blended, assimilated and were bound into the existing Anglo-Celtic society.

The Minister for Small Business and Tourism, who is at the table, would realise this from the experience of his family, who fled from Palestine in 1948-49 and sought refuge in Australia. When they had a choice to go to America or come here, they came and built a life here—a purposeful and sure life, as the minister has been proud to relate in talking about not only his dad's deli but also the family's move into the real estate business. The others may disagree, but he considers himself to be the one in the family who lost out because he did law while the others—two brothers and a sister, I think—stayed in real

estate. Like mine, his family have helped to build this country through their involvement in small business. Given the enormous problems his family faced with the situation in Palestine in 1948, he would understand that it takes a great deal to adapt to being forced out of your known existence and the place where you have found your whole identity. People who fled Palestine and were forced into southern Lebanon have been living in refugee camps ever since, 50 years after the events of 1948-49.

Likewise, those people who came to Australia readily sought to build a new life under harsh conditions. Effectively, they had a two-year provision where they could be separated from their families. People such as those who had their families in Bonegilla, which was one of the migrant camps way down south, or those people in my electorate who were in the Chullora camp—as was my sister-in-law, Ursula, with her brother, mother and father—or those people who were in Villawood camp. Husbands were sent far and wide to work and yet they sustained their families and helped to build a life in the city of Bankstown within the electorate of Blaxland and they helped to create the modern Australia.

So I come to the current situation with a sense of deep feeling for the people in my electorate who came and built Bankstown post World War II, for their experiences, for the fact that they gained very little help and did it really hard. Refugee cases worldwide have exploded in numbers and intensity. Australia's situation and Australia's system of detention can be looked at in a vast variety of ways, but fundamentally it has to be looked at from the perspective of Australia's immigration program and the necessity to control our borders.

We also have to look to the question of how best to deal with the bill at hand. The minister has to deal with these matters. He has chosen to bring this bill forward extremely belatedly. The minister has argued a question of urgency that has been accepted by some but rejected by Labor. The reason for that is very simple: if these matters were so urgent, they would have been pressed more than six months ago; the particular provisions in relation to this bill would have been pressed then. In regard to Lim's case in 1992 and the action of the then Labor government in imposing mandatory detention for a short period of time—and that was the original intent—to provide for detention and to indicate its lawfulness, the demand of the then government was always based on the fact that we wanted to put people through the system as quickly as possible. Our problem was that people were dilatory in putting their case forward based on their legal advice on it and the manner in which they attempted to prosecute it.

On the broader question, the Migration Amendment (Duration of Detention) Bill 2003 seeks to clarify whether or not, for classes of people who have been in long-term detention, that detention has been appropriate and lawful. It seeks to clarify the position of particular categories of people—for instance, those people who have done durance after being convicted of criminal activities and face deportation. The argument has been put that those people should be let out into the community if the Federal Court rules that those people should be released, because their detention may be regarded as punitive because of its long-term nature.

The one abiding common problem facing this government and the previous government is the question of how to deal with people who are in long-term detention and how to speed up the whole of that processing. But the problem remains that there are people

who residually cannot be dealt with on a speedy basis. The most important of those, of course, are those who were not able to be returned to Iraq prior to the last war. These were the people who caused the most damage within the confines of the detention centres. But if you look at a much broader context—people coming from times that were difficult, places indeed that were war torn, and seeking to escape from those places—you will find that there is a long history of governments dealing in different ways with those matters.

I want to conclude by looking at the question of what has happened in the last month or so in this parliament in dealing with the matters that the Minister for Immigration and Multicultural and Indigenous Affairs has been addressing and the questions that have been put to him day by day. Some months ago, in dealing with the question of people-smuggling and gun running into Australia in the Main Committee, I made the allegation, without mentioning the name of Karim Kisrwani, that the story about the Liberal Party's activities in Western Sydney in conjunction with Karim Kisrwani and other people of his ilk was a story that was yet to be told. I said that Australia's immigration laws and rules and the control not only of its borders but of its very immigration system were subverted by the actions of those people who chose, like Mr Kisrwani, to get around the normal process of dealing with the immigration department. In fact, a virtual monopoly had been set up since 1976 when, under the Fraser government, up to 14,000 people were brought to Australia on tickets issued by Karim Kisrwani's travel agency.

The SPEAKER—The member for Blaxland would be aware that I have granted him a good deal of latitude, as I did to the member for Fowler. I would be grateful if he could tie the travel agency comments to the question of mandatory detention.

Mr HATTON—Mr Speaker, it is very simple. With respect to the great influx of people who came as refugee humanitarian cases in 1976 under the aegis of the Fraser government—people who were not ASIO cleared, people who had no police protection whatsoever—a number of those people and their progeny have caused significant problems in the Australian society since then. They have made extremely difficult the questions of how one deals effectively with running an immigration system and dealing with detention in our centres. In fact, it has brought the whole system under question. If our immigration system and detention centres are to be run on the basis that they should be then the manner in which conservative governments have dealt with these issues needs to be properly addressed. I do not think that in the past month we have had direct answers to these questions. I do not think that, in the past month, in terms of duration of detention or the underlying question of the suborning of the immigration system, we have had adequate answers as to whether these matters have been dealt with.

Mr RUDDOCK (Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (11.01 p.m.)—In relation to the Migration Amendment (Duration of Detention) Bill 2003, I appreciate the comments that have been made by members. There has been considerable misrepresentation of a range of issues and a considerable misunderstanding of the nature of the legislation, and it is appropriate that I should deal with some of those matters. The purpose of the bill is to restate and uphold the original intention behind the Migration Amendment Act 1992 and the Migration Reform Act

1992. These acts introduced mandatory detention, which is now expressed in section 196 of the Migration Act 1958. The purpose of section 196 is to put beyond doubt that an unlawful non-citizen must be detained until he or she is either removed from Australia, deported or granted a visa.

Section 196 makes it clear that there is to be no discretion for any person or court to release an unlawful non-citizen from detention until one of these events occurs. However, there has been a trend recently for the Federal Court to make interlocutory orders for the release of persons from immigration detention, pending the final determination of a person's judicial review application. Let me say for those who seem to misunderstand this matter, this is not about indefinite detention—

Ms Gillard interjecting—

Mr RUDDOCK—It is not about indefinite detention; it is until a court has dealt with the substantive issue, and the substantive issue is the determination of the person's judicial review application. If a court has come to a view that that is indeterminate and it can no longer lawfully be upheld, that decision can still be reached. The question we are dealing with here is whether or not, before it gets round to dealing with that issue, a court can release a person on an interlocutory basis, such that the Commonwealth then has the task of locating and detaining again that person if, finally, the judicial review application is not successful.

The point I have made is that this process has resulted in unlawful non-citizens being released into the Australian community until their applications are finalised by the courts. This process might take several months. In many cases these persons are of significant character concern for whom removal action has already commenced. The release of such persons represents a serious risk to the Australian community. Therefore, this bill ensures that parliament's original intention in relation to mandatory detention is absolutely clear—that is, the bill amends section 196 to ensure that an unlawful non-citizen must be kept in immigration detention, except where he or she is removed from Australia, deported, granted a visa or a court makes final orders that the detention is unlawful or that the person is not an unlawful non-citizen.

The amendments contained in this bill clarify that there is no discretion for any person or court to release a person from immigration detention pending a determination of any substantive proceedings, whether or not there is a real likelihood of a detained person being removed from Australia or deported in the reasonably foreseeable future, or a decision to refuse a grant to cancel or refuse to reinstate a visa is unlawful. As I mentioned when introducing this bill, it does not prevent a court from making a final decision in relation to any application made to the court. The simple and clear intent of the bill is to uphold the government's mandatory detention policy and to ensure the efficient and effective removal of unlawful non-citizens from Australia.

Given that the courts have now demonstrated an increasing willingness to release persons from immigration detention pending final determination of their case, it is absolutely crucial that this bill is passed as a matter of urgency. I will put it in this context: when you are dealing with people who have been through the legal system, who have been sentenced to substantial periods of jail for serious crimes that might involve injury to individuals or might involve substantial drug use, criminal deportation is not something that occurs lightly. It can only occur where the offences are of a significant nature.

Usually, there should be only a relatively short time between when a person is released from jail—and removal can be arranged—and detention should be of a short period. But when the House of Representatives standing committee looked at these issues some time ago it discovered that the deportation issue is not always looked at until towards the end of the period of sentence. It often depends upon state authorities advising the Commonwealth that a person ought to be considered for deportation.

So you do have situations where people are at the point where they are detained and removal may be some time off. You have situations where people, at times, decide that they want to test the lawfulness of the decision in relation to their removal. Our view is that those people ought to be available for removal. We are concerned that people who are likely to be otherwise removed pose a risk to the community. The urgency associated with this, as far as I am concerned, is that I do not want it to be a matter that occurs on my watch that somebody is released on an interlocutory basis and some harm occurs to an Australian as a result of that release.

I say this very deliberately: I have sought to have this matter dealt with as urgently as possible. It is not a matter that I have left idle. As the matter became germane—and it is only in recent times that these releases in relation to criminal deportation have been occurring—I have been getting advice on what amendments to the law could be made. The shadow minister from time to time has suggested that there was something more than coincidental in this—in other words, that I had schemed to take some pressure off myself, allegedly, by introducing this bill at this time. Let me just say to the shadow minister: bills are not drafted overnight. The issues are not addressed in the time frame of a month or so. By the time you get parliamentary counsel, you get all the approvals and it goes through the cabinet process and through the parliamentary business process—

Ms Gillard interjecting—

Mr RUDDOCK—That is the case. It does take time in relation to those matters. The shadow minister said, 'Couldn't you have given us some heads-up in relation to this?' The fact is that, when the legislation is prepared, it has to go through a backbench committee and it has to go before a party room and be approved. They are the procedures that have to be followed. I want to make it very clear that I do not want anything to happen—and I am not predicting that anything will happen—but, if it does happen, I will not accept any blame or culpability for having failed to act in relation to this matter if it has been held up in the processes of this parliament and the extra review that wants to be undertaken. I think it is a matter that needs to be dealt with as urgently as possible, and I have put that very strongly.

The government acknowledges that it is accountable to the Australian community in ensuring the safety of persons within our community. With this in mind, it is essential that the government can determine whether a non-citizen of character concern should be in the Australian community or should be removed from Australia. Without the amendments in this bill, persons of significant character concern may continue to be released into the community until the court finally determines their application. This situation may continue for several months, and it is most undesirable.

I will take up some of the points that have been made in the debate. The member for Lalor made reference to the Federal Court's decision in VFAD. She stated that this person's detention was unlawful after 7 Decem-

ber 2001 because a protection visa decision had been made in relation to the person. In fact, in order to be granted a protection visa, a person not only must be found to be a refugee but also must satisfy public interest criteria such as criminal and security checks. In this case the checks were still being undertaken. The health check was okay but the ASIO check was outstanding. The Federal Court ordered this person's interlocutory release pending its determination of whether in fact the person had been granted a visa as claimed. It made no finding that this had occurred.

The member for Lalor claimed that there was no urgency for the passing of this bill, as the interlocutory release power had existed since the full Federal Court's decision in Msilanga. In fact, following Msilanga, in 1994 the then Labor government introduced the mandatory detention provisions. That is a matter that the member for Denison might care to note as well. He seems to have been under a misapprehension about the clock-stopping events that were brought in considerably earlier and were found wanting. A former Labor government was sued for substantial damages, as I recall, as a result of people having been found to have been falsely imprisoned, because the courts held that the clock had been stopped when it ought not to have stopped. That is what the court effectively held. Therefore, the time that the government thought that a person could be held had in fact run out when the government thought it had not.

The provisions that were introduced in 1994 are the present provisions in 196, which are the mandatory detention provisions. For the member for Denison to suggest that Labor was not responsible for mandatory detention ignores the provisions that were brought into the act in 1994. With those provisions, which specifically included provisions to make it clear that the courts did not have a discretion to release persons from immigration detention, the statutory framework from the Migration Act changed. As the then Labor minister for immigration said:

> The most important aspect of this legislation is that it provides that a court cannot interfere with the period of custody.

I repeat:

> The most important aspect of this legislation is that it provides that a court cannot interfere with the period of custody. No law other than the Constitution will have any impact on it.

I am advised that, following the introduction of Labor's mandatory detention regime into the Migration Act, the Federal Court had not attempted to exercise any of its claimed interlocutory powers to release persons from detention until mid-2002. That is the advice I have. So the member for Lalor's claim that this bill is not urgent needs to be seen in this context. Since mid-2002 there have been more than 20 persons released on an interlocutory basis—more than 10 of these have involved persons who were of character concern, including persons with convictions such as rape, armed robbery and drug trafficking.

In relation to the shadow minister's desire for all asylum seeker families to be released from detention centres, I will reiterate what I have said before: appropriate alternative detention arrangements are being actively explored by the government. I have made announcements about that over the last few days, particularly identifying a site in Baxter. I noticed that one of the members commenting on these issues—I think it was the member for Fowler—said she did not expect to see the Baxter facility operational. If there is reasonable cooperation from the state government in South Australia—and I have no reason to believe there will not be—we

should be able to have it operational by September. The site that has been chosen is one that has serviced lots available to it, so it is a preferable site because it does not have to be serviced. The housing is intended to be transferred from Woomera to be placed on site. So movement can occur quite quickly in relation to that. *(Quorum formed)*

The opposition has moved a second reading amendment in relation to this bill. One point I make for all my colleagues who are interested in this matter is that the opposition's amendment has put an end, once and for all, to the facade that has been portrayed for some time by the opposition that it is serious about border protection and as serious as this government about protecting the integrity of Australia's border arrangements.

Mr Sidebottom—You've got an audience now.

Ms Gillard—Are you proud of that? Keeping children in detention; are you proud of that?

Mr RUDDOCK—What they are about is ensuring that those people who bring families to Australia with them will be automatically released. What they are about is ensuring that mandatory detention is ineffective.

Ms Gillard interjecting—

Mr RUDDOCK—No, mandatory detention will no longer be effective and what they will be doing is encouraging people smugglers—

Mr Sidebottom interjecting—

The SPEAKER—The member for Braddon has been warned once today. The warning is technically still alive.

Mr RUDDOCK—to get more families onto boats, the sorts of boats like SIEV X, which took the lives of something like 354 people.

Ms Gillard interjecting—

Mr RUDDOCK—I just mention it very carefully, because the fact—

The SPEAKER—The minister will resume his seat. The minister has the call. I will deal with the member for Lalor if she continues to persistently interject.

Mr RUDDOCK—I hope the Australian public will see it for what it is. What we have now is a Labor Party that is saying, 'Look, the government have addressed this issue. We don't see boats coming over the horizon because they've implemented policies that have achieved that outcome. But we are about unwinding those measures because we think we can see a political advantage for ourselves in relation to this.' There is no political advantage, let me assure you, in going out there into the Australian community and trying to say on the one hand, 'We are just as concerned about border protection as you are,' but on the other hand saying, 'But we intend to take every step we can along the way to undermine it.' What you are doing here, when you propose an amendment of this sort, is making it abundantly clear to the Australian community that you have given up on border protection.

Question put:

That the words proposed to be omitted (**Ms Gillard's** amendment) stand part of the question.

The House divided. [11.25 p.m.]

(The Speaker—Mr Neil Andrew)

Ayes……	74
Noes……	63
Majority……	11

AYES

Abbott, A.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.
Forrest, J.A. *	Gallus, C.A.
Gambaro, T.	Gash, J.
Georgiou, P.	Haase, B.W.
Hardgrave, G.D.	Hartsuyker, L.
Hawker, D.P.M.	Hockey, J.B.
Hull, K.E.	Hunt, G.A.
Johnson, M.A.	Jull, D.F.
Kelly, D.M.	Kelly, J.M.
Kemp, D.A.	Ley, S.P.
Lindsay, P.J.	Lloyd, J.E.
May, M.A.	McArthur, S. *
Moylan, J. E.	Nairn, G. R.
Nelson, B.J.	Neville, P.C.
Panopoulos, S.	Pearce, C.J.
Prosser, G.D.	Pyne, C.
Randall, D.J.	Ruddock, P.M.
Schultz, A.	Scott, B.C.
Secker, P.D.	Slipper, P.N.
Smith, A.D.H.	Somlyay, A.M.
Southcott, A.J.	Stone, S.N.
Thompson, C.P.	Ticehurst, K.V.
Tollner, D.W.	Truss, W.E.
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.
Crean, S.F.	Crosio, J.A.
Danby, M. *	Edwards, G.J.
Ellis, A.L.	Emerson, C.A.
Evans, M.J.	Ferguson, L.D.T.
Ferguson, M.J.	George, J.
Gibbons, S.W.	Gillard, J.E.
Grierson, S.J.	Griffin, A.P.
Hall, J.G.	Hatton, M.J.
Hoare, K.J.	Irwin, J.
Jackson, S.M.	Jenkins, H.A.
Kerr, D.J.C.	King, C.F.
Latham, M.W.	Livermore, K.F.
Macklin, J.L.	McClelland, R.B.
McFarlane, J.S.	McLeay, L.B.
McMullan, R.F.	Melham, D.
Mossfield, F.W.	Murphy, J. P.
O'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.
Sidebottom, P.S.	Smith, S.F.
Snowdon, W.E.	Swan, W.M.
Tanner, L.	Thomson, K.J.
Vamvakinou, M.	Wilkie, K.
Zahra, C.J.	

PAIRS

Anderson, J.D.	Sercombe, R.C.G.
Andrews, K.J.	Fitzgibbon, J.A.

* denotes teller

Question agreed to.

Original question agreed to.

Bill read a second time.

Third Reading

Mr RUDDOCK (Berowra—Minister for Immigration and Multicultural and Indigenous Affairs and Minister Assisting the Prime Minister for Reconciliation) (11.30 p.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Mr ABBOTT (Warringah—Leader of the House) (11.30 p.m.)—On indulgence, Mr Speaker, I think I express the wish of everyone when I say that if it is possible to conclude the business in the next hour or so we will, but if it is not it is my intention to ad-

journ and come back for an hour or so tomorrow. That is what I would like to do. I would like to get all business—

Mr Martin Ferguson—So we'll be back here at eight o'clock tomorrow morning!

Mr ABBOTT—We would all often want to do that, I have to say to the member for Batman. If we can finish in the next hour or so we will; if we cannot, my intention is to adjourn the House and come back at eight o'clock tomorrow morning. I am about to go and find out what the latest is from the Senate.

AUSTRALIAN HUMAN RIGHTS COMMISSION LEGISLATION BILL 2003

Second Reading

Debate resumed from 27 March, on motion by **Mr Williams**:

That this bill be now read a second time.

Mr McCLELLAND (Barton) (11.32 p.m.)—I rise to speak on the Australian Human Rights Commission Legislation Bill 2003. On 5 February last year the Attorney-General delivered a speech to his department entitled 'Portfolio priorities in the Howard government's third term'. In that speech the Attorney-General said:

… I am concerned that there is a view among sections of the community that the Howard Government is not committed to human rights. I would like to address this misconception during the third term.

The Attorney-General was half right. There is no doubt that Australians are gravely concerned that the Howard government has retreated from the high human rights standards we expect our governments to uphold as part of our nation's commitment to a fair go. However, there is no sign that the government is any more committed to human rights in its third term than it was in its first six years.

This legislation would seriously weaken Australia's national human rights body, the Human Rights and Equal Opportunity Commission. It is a particularly disturbing gesture by the Howard government because it arrives at a time when we are debating the balance between freedom and security. An immediate example is the ASIO bill, which has been passed today by the House and the Senate. The government would be foolish to underestimate the sensitivity in the Australian community of the issues raised by that legislation. I experienced some of that tonight when I was defending the legislation on ABC radio in circumstances where the Attorney-General was unable to appear.

At a time when the parliament is asking the Australian people to accept that the measures being put in place to address the threat of terrorism strike a necessary compromise between freedom and security, Labor believes the government should be showing its good faith by strengthening human rights protections in other areas. Instead, with this bill the Howard government can clearly be seen to be weakening them.

It is important in this debate to recall that the establishment of HREOC in 1986 was opposed by the Liberal and National parties. The contributions of coalition members and senators to that debate betrayed their deep mistrust of a strong and independent human rights body and revealed a disturbing assumption that human rights largely exist at the pleasure of the government of the day. Malcolm Fraser's Attorney-General, Senator Peter Durack, said the commission should remain:

… a small advisory body as we set up when we were in government, a body with a small budget to advise government on human rights matters …

In a similar vein, Senator Chris Puplick said:

> The Human Rights Commission should be substantially an advisory body within its charter …

He also said:

> We do not believe that it should be turned into a body having essentially all full time members and participants.

On behalf of the National Party, Senator Flo Bjelke-Petersen made a less restrained contribution, describing the Hawke government's human rights legislation as:

> … some of the most dangerous Bills to have been introduced into the Parliament since Federation.

Despite the fact that over the ensuing decade their suspicions proved to be completely without foundation, elements in the coalition parties clearly carried their deep mistrust of the commission with them into government. There is no other way to explain the persistent legislative and budgetary attacks on HREOC by the Howard government.

The attacks began in the Howard government's first budget, when the commission suffered an ongoing reduction of $6 million over three years. As a result of budget cuts, the commission made 60 staff redundant, left two of its specialist commissioner positions vacant and closed its regional offices. This is despite the fact that the Human Rights and Equal Opportunity Commission's own work through the Bush Talks program showed that there has been a fundamental neglect of the human rights of Australians living in rural and regional Australia. There has been neglect in terms of their right to decent levels of education; decent levels of health care for both physical and mental issues; assistance with issues of substance abuse; and access to decent services, including, of course, as we have debated this week in the House, access to telecommunications infrastructure.

The legislative attacks began shortly after with the introduction of the Human Rights Legislation Amendment Bill (No. 2) in 1998, which followed on from those budget cuts, and again after the election in 1999. Regrettably, the government has learnt nothing from the fate of that legislation, which was rejected by the parliament and was the subject of scathing criticism even by members of the government in the Senate. Plainly embarrassed at having wedged his own party, the Attorney-General retreated for a few years. But for some unknown reason this legislation has been resurrected, renamed and presented to the House.

The effect of the bill has been made clear by Professor Alice Tay, the immediate past president of the commission, who told the Senate Committee which examined this bill:

> If passed, the bill will hand to the next president an inferior set of responsibilities, a less cohesive management structure and less of a mandate to help protect the human rights of Australians.
>
> … … …
>
> The human rights of Australians will not be better served by limiting the ability of the national human rights body to function independently.

Professor Tay retired at the end of May, and I take this opportunity to thank her for her years of public service in the cause of Australians' human rights and to wish her well for the future. I also welcome the appointment of the new president, Justice von Doussa, who has been a distinguished judge of the Federal Court of Australia, working primarily from the Adelaide registry. He will bring considerable expertise, balance and experience to the work of the commission. I urge the Attorney-General to acknowledge Professor Tay's damning assessment of his legislation and to respect the right of Justice von Doussa to inherit an effective human rights body.

I will now address the most significant measures contained in the bill. Firstly, and most concerning, is the proposed restriction on intervention. The bill would require the commission to seek the permission of the Attorney-General before exercising its power of intervention in court and tribunal proceedings. The Attorney-General claims that this is necessary to 'prevent duplication and the waste of resources and to ensure that court submissions accord with the interests of the community as a whole'. The latter part of that sentence, carrying with it the innuendo that submissions in support of human rights serve the interests not of the community but of 'minorities' and 'elites', immediately betrays this measure as a political wedge in the worst traditions of the Howard government. This was also a measure contained in the 1998 bill. On that occasion the Attorney-General succeeded in driving a wedge straight through his own party, as government senators on the committee concluded:

> ... the committee has not received any evidence that the commission's power to intervene has been abused. In fact, the commission has never been refused leave to intervene by the courts on the limited occasions in which it has sought such leave, and indeed the committee received evidence that the courts value contributions made by HREOC.
>
> The changes proposed may well give rise to conflicts of interest for the Attorney-General, and be perceived by the community as compromising the independence of the commission.

Clearly stung by these criticisms, the Attorney-General offered a minor concession in the 1999 bill, moving amendments at the third reading stage which removed the requirement to seek the Attorney-General's permission, and replaced it with a requirement to notify him and give written reasons. For some reason, four years later the Attorney-General has now come up with a two-tiered proposal. Where the president of the commission is or was a federal judge immediately before appointment, the commission is required to notify the Attorney-General of a proposed intervention and provide written reasons for it a reasonable time before the court application is made. In all other cases, the commission must obtain the permission of the Attorney-General to intervene. Of course, the former requirement applies to Justice von Doussa, but the Attorney-General could just as easily appoint a president in future to whom the latter requirement applies because they are not a former judge.

Once again, a majority of the Senate legislation committee considering this bill recommended that this measure not be agreed to. Only Senator Scullion dissented from that recommendation. The Attorney-General has successfully wedged his own side of politics once again. It cannot be long before the Prime Minister takes the Attorney-General aside and quietly reminds him that the whole point of wedge politics is to wedge your opponents, not your own party, which the government has professed some expertise in.

Let me assure this House that, unlike the coalition, whose more decent members, those with a conscience, quietly abhor the way this government works at every opportunity to stoke prejudice in the community, the Labor Party's opposition to this measure is clear, rock solid and voiced publicly. There are many reasons why this measure should be rejected by the parliament. First and foremost, there is absolutely no evidence that the commission is misusing its intervention power. Since the commission was established in 1986 it has applied to intervene in proceedings 35 times and has been granted leave on every single occasion. The commission gave evidence to the Senate committee that it endeavours to use its intervention power ju-

diciously and sparingly to ensure that human rights arguments that might not otherwise find voice in court cases are able to be argued and to provide specialist advice and experience on domestic and international human rights law independent of the parties to the case. Importantly, the commission's submissions have differed materially from the Commonwealth's on a point of human rights law or principle in 16 matters in which the Commonwealth has been a party and the commission has intervened. Effectively, the commission has intervened and appeared as an entirely independent statutory authority, which of course it is.

When pressed, the Attorney-General has suggested that there have been two interventions he regarded as inappropriate: the 1997 Family Court case of B and B, and the 2002 Western Australian coronial inquest into the deaths of asylum seekers following the sinking of the *Sumber Lestari*. In relation to the B and B case Family Court Chief Justice Nicholson made a submission to the inquiry on the 1998 bill confirming that:

> The Court was significantly assisted by the Commission as well as the Attorney-General.

They were arguing two points of view, but they gave the court the benefit of expertise from those conflicting points of view. In the latter case—the coronial inquest—the Commonwealth actually opposed the commission's application for leave to intervene, but the inquest granted leave in any event.

These two cases demonstrate that the relevant court or tribunal is more than capable of deciding whether it is in the public interest to allow the commission to intervene and, in most cases, will be better placed to do so than the Attorney-General, whose judgment will often be influenced by short-term political considerations. That analysis applies particularly to the current Attorney-General, who, when called upon to defend the judiciary from inappropriate attacks by members of his government, has constantly sought to excuse his failure to do so by emphasising that he is a member of the cabinet and a partisan politician. It is, with respect, quite hypocritical and somewhat ridiculous in the context of this bill for the Attorney-General to set himself up as some sort of impartial arbiter of the public interest, suddenly capable of stepping aside from that partisan political role that he has professed and claimed to occupy and of exercising the detachment from partisan politics he has disclaimed in other contexts. He cannot, quite frankly, have it both ways.

Aside from the two cases volunteered by the Attorney-General, it is obvious that there have been other cases where the commission's intervention has caused mutterings and grumblings in the coalition ranks. Perhaps the most significant of these was last year's IVF case re McBain; ex parte the Australian Catholic Bishops Conference. I intend to discuss this case at some length because it provides a useful contrast between the exercise by HREOC and the Attorney-General of their respective powers of intervention.

The McBain case was an embarrassing case study of how not to conduct litigation on behalf of the Commonwealth. The House will recall that in that case Justice Sundberg of the Federal Court determined that the Commonwealth Sex Discrimination Act prevented the states from discriminating against unmarried women in the provision of IVF and other infertility treatments. As Justice McHugh later noted in the High Court:

> ... the Attorney-General could have intervened in the proceedings in the Federal Court and become a party to the proceedings. If he had, he could have appealed against the order of Sundberg J. But the Attorney elected not to do so.

The Attorney-General's ham-fisted reaction to the consequences of his own neglect was to grant a fiat to the Australian Catholic Bishops Conference enabling them to argue in the High Court that states should by law be allowed to discriminate against unmarried women in the provision of infertility treatments—another great human rights proposition endorsed and advocated by the Howard government through legislation.

Amazingly, the Attorney-General then sought to intervene personally on behalf of the Commonwealth to argue against the bishops, who had been granted a fiat to appear and were the very people empowered by the government's own action to challenge the Federal Court's decision. This prompted Justice Gaudron during the hearing on 4 September 2001 to note that the Attorney-General's unprecedented intervention turned the case into 'a schizophrenic debating game' and 'made a mockery of the judicial process'. Not surprisingly, the Attorney-General's unusual behaviour came in for heavy criticism in the High Court's judgment on 18 April last year, in particular from Justice Hayne, who stated:

> It was not open to an Attorney who had granted a fiat for the institution of a proceeding thereafter to intervene in that proceeding or to make submissions either in support of or opposing the case advanced in the name of the Attorney as plaintiff or applicant in that proceeding.

Justices Gaudron and Gummow went further, pointedly calling into question the appropriateness of the Attorney-General's intervention. Their ruling said:

> Here the Attorney (both as an intervener and on the relation of the Episcopal Conference) seeks to re-open closed litigation between other parties and to purge the record of the Federal Court of an order which is at odds with an allegedly desirable state of constitutional affairs ... Whether acting on relation or otherwise, the Attorney-General ... cannot have a roving commission to initiate litigation to disrupt settled outcomes in earlier cases, so as to rid the law reports of what are considered unsatisfactory decisions respecting constitutional law.

As a result, the High Court formed the view that there was no matter before it—because, essentially, there was no grievance between parties—and accordingly dismissed the application. The bishops did not even succeed as far as having the constitutional question heard.

It does not end there. At the very least, one would have thought that the Attorney-General's decision to grant the fiat to the bishops was based on sound legal advice that they had an arguable case. But, the day after the High Court's judgment, on Melbourne radio station 3AW the Prime Minister told announcer Neil Mitchell:

> We have received advice all along that there probably is a technical inconsistency between the Sex Discrimination Act and the state legislation allowing state governments to deny the IVF program to other than heterosexual couples married or de facto.

So the Attorney-General, the first law officer of the Commonwealth, decided to exercise his power to grant a fiat to argue a case that his legal advice told him was probably wrong—and the Prime Minister disclosed that on radio. The Human Rights and Equal Opportunity Commission was also granted leave by the High Court to intervene in the McBain case. I have carefully examined the judgments of the High Court, and I cannot find any criticism whatsoever of the commission's intervention or argument.

The Attorney-General has claimed that this bill is necessary to prevent 'the waste of resources'. Let us look at that important issue. In particular, let us compare the costs incurred by the Attorney-General and HREOC.

The Attorney-General's Department has informed us that, as of the day after the High Court's decision, the costs to the Attorney-General's Department totalled $235,240—nearly a quarter of a million dollars. That figure includes the cost of legal advice to the Attorney-General, the cost of drafting the fiat granted by the Attorney-General to the bishops and the cost of representing the Attorney-General before the High Court. It does not include the costs of Dr McBain. The Attorney-General's Department has revealed that the Attorney-General had imposed a condition on his fiat that the bishops would pay the costs. This was lucky because, without this rider, the bill to the taxpayer would have been substantially higher than a quarter of a million dollars.

In contrast to that quarter of a million dollars or close to it, the costs incurred by HREOC in engaging counsel in the McBain case were a mere $8,068.15. That is almost a quarter of a million dollars versus $8,000. On my rough calculation, the Attorney-General spent 29 times as much on his intervention as HREOC did on its own. In fact, the costs incurred by the Attorney-General alone exceeded by a long way the costs of the commission's last 18 interventions over the past three financial years, which are approximately $200,000 in total, or 0.5 per cent of the commission's total budget. I do not know but I suspect that Australian taxpayers would prefer the Attorney-General to rein in his own exorbitant costs for these frolics rather than legislate to restrict and restrain the ability of HREOC to appear in cases.

I should also note that the lesser requirement to notify the Attorney-General in the case of a judge or retired judge being the president is, as I have indicated, in our view equally inappropriate and unworkable. As a lawyer, it seems to me to be a discourtesy to the court and to the parties to require the commission to speak to the Attorney-General before it has even notified them of its proposed intervention. It creates a perception that the approval of the Attorney-General, while not formally required, is being informally sought and, if an intervention is not pursued, the public would be left wondering what pressure if any was applied by the government to the commission not to intervene in the case. At the very least, it impedes the capacity of the commission to intervene expeditiously in matters involving a degree of urgency, such as matters involving the imminent detention or deportation of individuals. It certainly affects the public's perception of its independence—an independence hard won by the current Human Rights and Equal Opportunity Commission and respected.

The second issue which I would like to focus on is the abolition of specialist commissioners. It is proposed in this bill to abolish the specialist commissioner positions and replace them with three generalist human rights commissioners. The Attorney-General claims this is necessary because the current structure has given the commission too narrow a focus, to the neglect of subjects which do not fall neatly into one particular area of responsibility.

The Attorney-General's concerns simply do not accord with the facts. Today we saw the Attorney-General introduce age discrimination legislation which followed from a HREOC inquiry and report, and we welcome that. In recent times, the Human Rights Commissioner, Dr Ozdowski, has conducted a public inquiry into children in immigration detention, which has covered a range of issues, including the impact of detention on children with disabilities and girls and young women. The Race Discrimination Commissioner, Dr Jonas, is conducting a project on

combating prejudice against Arab and Muslim Australians, which concerns both racial and religious discrimination. Sex Discrimination Commissioner, Pru Goward, has conducted an inquiry into paid maternity leave which has shed light on a whole range of work and family issues of concern not just to working mothers but to all working Australians and their children.

No doubt the government is annoyed that HREOC's powerful advocacy has made these issues harder to manage politically, but there is no justification for this bill abolishing those specialist commissioners who have done such an excellent job. The Attorney-General's proposed restructuring would almost certainly render the commission as a less effective body. Indeed, Dr Bill Jonas told the Senate committee:

> Specialist Commissioners with specialist expertise have so far been successful in tackling serious human rights issues in Australia and are respected as officers with extensive knowledge and experience in socially complex issues. Changes can only bring confusion over roles and leave disadvantaged groups without an identified advocate.

While this is a concern in relation to all specialist commissioners, it was evident from the submissions received by the Senate committee that it is a particular concern in respect of the Aboriginal and Torres Strait Islander Social Justice Commissioner. The problem was well summarised by former Royal Commissioner into Aboriginal Deaths in Custody, Mr Hal Wootten QC, who said:

> The point is not that the existence of an Aboriginal Social Justice Commissioner is a solution … but that the present is no time to be abolishing the only independent, specialised and informed source dedicated to keeping the issues before Government and the public and pressing for appropriate attention.

In summary, the proposed restructure is a bad idea. It will result in a less effective national human rights body. It does not meet the expectations of Australians, and it too should be rejected by parliament. We also are concerned with other amendments, perhaps not as significant as those two to which I have referred, and I will outline those briefly.

Firstly there is the loss of the power to recommend compensation. We do not agree with the government that the commission should lose its power to recommend the payment of damages or compensation following inquiries into alleged breaches of human rights by the Commonwealth or alleged discrimination relating to employment. While these recommendations are unenforceable, they certainly carry moral weight and, on the evidence presented by the commission, respondents have actually paid the compensation in 27 per cent of cases. The mere fact that compensation has been recommended is itself an indication to the community that damage and loss have resulted from the acts of discrimination.

Next there is the change of name and a proposal to include by-lines on correspondence. In relation to the change of name, I would say that, at a time when we are having a broader political debate about equality of opportunity in relation to important public services like health care and education and training, removing the words 'equal opportunity' from the name of the commission sends completely the wrong message to the Australian community. 'Equality of opportunity' is a synonym for the quintessential Australian value of 'a fair go', and that title should remain.

The proposal that HREOC mandatorily include on its correspondence the by-line 'Human rights—everyone's responsibility' is, with respect, a trivial one. The Attorney-General has wrongly advised the parliament, with respect, that it is something desired or

suggested by the commission. It was, as I understand it, raised as an alternative when the Attorney-General previously proposed a name change by the government, which would have renamed the commission the human rights and responsibilities commission. If the Attorney-General had made any attempt in recent times to consult the commission on the legislation, he would have saved himself, quite frankly, the embarrassment of invalidly claiming that HREOC supported this somewhat trivial proposal.

In respect to complaint handling, the bill would also enable the Attorney-General to appoint part-time complaints commissioners, and it is difficult to see what purpose this serves, other than to give the Attorney-General more control over the selection of complaints handlers. While there is no legal requirement to use them, there would undoubtedly be moral pressure to do so. We also note that there is a proposal in the bill to re-emphasise the role of education. It suggests that the commission has not been performing an effective role in educating as well as in enforcing rights. We think that imputation is unfounded and that the change is unnecessary.

In conclusion, we think that the reintroduction of the legislation really is history repeating itself, first as tragedy, then as farce. We have in Australia a tremendous human rights body, as acknowledged by Cherie Booth QC, the wife of the British Prime Minister. This legislation will only weaken HREOC's role, and I take this opportunity to move a second reading amendment. I move:

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

"the House declines to give the Bill a second reading and condemns the Government for:

(1) attempting to weaken the independence of the Human Rights and Equal Opportunity Commission by requiring the Commission to seek the permission of the Attorney-General before intervening in court proceedings;

(2) attempting to reduce the effectiveness of the Commission by abolishing specialist Commissioners;

(3) denigrating the valuable work undertaken by the Commission over its lifetime to strengthen the human rights of Australians".

The DEPUTY SPEAKER (Hon. I.R. Causley)—Is the amendment seconded?

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

Friday, 27 June 2003

Mr BAIRD (Cook) (12.02 a.m.)—I am happy to follow the member for Barton, my colleague in the adjoining electorate, in this debate on the Australian Human Rights Commission Legislation Bill 2003. While I respect his legal training and his abilities in a number of areas, I do believe that his comments tonight have been a little over the top. The bill is about providing flexibility for the Australian Human Rights Commission. It is about the ability to move responsibilities around so that you do not have a backlog in one area of the human rights organisation while others are right on top of things with, perhaps, free time available. This is switching around the responsibilities within the organisation, so that the main responsibility is taken by the president and they can move the responsibility for particular cases to individual commissioners. So all the claims that are made about the problems of the abandonment of the individual responsibilities of the commissioners are somewhat of a long bow to draw.

Secondly, the member for Barton's claim about the Senate intervention—his concern that this would set a bad precedent—is not borne out in the history of attorney-generals

and their previous record. It really is grasping at straws to suggest that this would be an issue. There is the question of the responsibility of the commission in making awards and judgments, and whether they do seek the permission of the Attorney-General's department. It is a significant way to go and it is important that a central referencing point should be established.

But it is true, as the member for Barton says, that Australia has a very fine record on human rights. It is interesting that he mentioned Ms Booth, the wife of the British Prime Minister. She said that Australia was ahead of Britain in raising the domestic profile of human rights through the Human Rights and Equal Opportunity Commission and that, unlike Australia, Britain had introduced a human rights act in 2000, adding:

> In Australia it is my understanding that human rights are protected through a combination of constitutional, statute and common law at both federal and state level.

The provisions of this particular piece of legislation will be retained. We are not eroding the right of review of human rights issues within Australia and the right to make recommendations to the government and to the Attorney-General's Department or to request intervention in court decisions. So that remains as the central role of the Human Rights Commission. It is changing its name, but its basic function will remain essentially the same.

Looking at Australia's human rights history during the period of this government, we see that the support it has given to the international crimes commission based in The Hague is an important part of human rights internationally and was supported by the Prime Minister and the Minister for Foreign Affairs. That commission has been established and has already begun work, and it received the support of members on this side of the House, as well as members from the Labor ranks within this chamber. Look at the government's record in Burma, Sudan and Rwanda, the human rights dialogue that has been set up in China, and our involvement in East Timor and Vietnam. This very day I went, with the member for Fowler, to the embassy for Vietnam, to make recommendations in a particular case that involves some gross violations of human rights of a Vietnamese person. We made recommendations and representations to the ambassador himself. This is the way we believe is appropriate and continues our human rights tradition.

We have been involved in women's rights in Pakistan, we have been concerned about the Mugabe regime in Zimbabwe and we have been involved in this chamber in the case of Amina Lawal in Nigeria. So, whether we look at Ethiopia or at our own Pacific neighbours, this country is concerned with human rights. We have been concerned with human rights not only internationally but also within Australia, and the Australian Human Rights Commission retains its important and significant role in this community. In terms of a community, a country is judged not only by the strength of its economy or by the social services it provides and its level of infrastructure but also, most importantly, by the level of assistance given to those most in need in the community. That is important for those who do not have the power in particular situations, and that is where we look at the human rights aspects of their situations.

The Australian Human Rights Commission Legislation Bill 2003 before us changes the emphasis of the Human Rights Commission to a fair degree in looking at the education aspects that are required. We should look at not only events after the case but also those things which must be done to educate

Australians—especially young people, those at schools and universities—about the importance of human rights within our community.

Discrimination against the young, the old, the less fortunate and the intellectually handicapped and on the basis of sexual preference, religion, ethnic background and gender are all things examined by the Human Rights Commission. The commission determines whether an individual is being given—as we would say—'a fair go' in the Australian community. Giving people a fair go is something that Australians are renowned for and this is basically what the Human Rights Commission is about.

Educating people on the need to look after the rights of others is most significant. These changes have occurred to make the organisation more dynamic. Within the last 30 years the commission in Australia has done a commendable job in facilitating community understanding of important human rights issues. The commission remains relevant for the future and, as defined in this legislation, will be better able to adapt to the ever-changing nature of human rights.

Currently, HREOC—under the leadership of its current president, Justice John William von Doussa, following on from former president Professor Alice Tay—continues to carry out excellent work in a variety of areas. While education is one of the functions of the commission, it is not the primary focus. This bill reflects the change in priorities for the future. I am sure this change will enhance the work of the commission and not detract from its responsibilities.

As I said previously, this bill restructures and renames HREOC—the Human Rights and Equal Opportunity Commission—to become simply the Australian Human Rights Commission. The structure of the commission at present consists of a president and five legislatively described portfolio specific commissioner positions. These portfolios will be removed and the new commission will consist of a president and three human rights commissioners without specific areas of responsibility. This group will have expertise covering a wide range of matters likely to come before the commission. As a group, they will be responsible for all the commission's functions.

Complaint handling will be fully centralised in the president, without there being a need to delegate to the commissioners. To ensure the ability of the commission to handle complaints, the Attorney will be able to appoint legally qualified part-time complaints commissioners to assist the president with this function. I heard the shadow Attorney-General speaking earlier about this ability to appoint part-time officers. This change has been recommended in this legistlation.

Currently, the commission can inquire into acts or practices inconsistent with human rights or employment discrimination under the Human Rights and Equal Opportunity Commission Act 1986. Under the bill, the commission will retain the powers to investigate, to attempt to conciliate and to report on their inquiries that previously existed under HREOC. The commission will be unable to recommend the payment of compensation in respect of loss or damage as a result of the act or practice.

The shadow Attorney-General was very concerned that the function to make decisions on payments for compensation would be taken away, but this is an appropriate way to go. It is not dissimilar to the way overseas human rights establishments operate where attorneys-general have a direct involvement.

It also removes the establishing of advisory committees and the community relations council, which is basically a practical step.

Instead of setting up committees which form a token basis for consultation, this bill encourages the commission to have real consultation with a broad cross-section of groups within the community. These people obviously will be those who are involved in human rights or discrimination issues. In my role as the chairman of the Amnesty group within the parliament and as a member of the human rights joint standing committee in this House, almost every day that the parliament sits people bring before me a number of issues that relate to human rights. Wider consultation will be of great benefit.

In terms of the previous breakdown of responsibilities, it is appropriate that we instead have this flexibility. The commissioner's prime responsibility will be as an educator. Through this education, we expect that human rights will be lifted to a significant level. In terms of intervention in court proceedings, the commission will retain the ability to make recommendations to remedy or reduce loss or damage suffered by a person. The use of non-financial remedies such as apologies can be far more important in gaining satisfactory resolutions to complaints.

In conclusion, Australia has had an outstanding record on human rights. The Human Rights and Equal Opportunity Commission has been involved in a wide range of antidiscrimination activities related to issues such as gender and age, and it has had a very fine record which is respected around the world. However, the flexibility which the new chairman will have to assign cases as he or she sees fit is to be welcomed. The need to refer matters to the Attorney-General before decisions on compensation are made would also seem appropriate. I commend this bill to the House. It is appropriate, as we make incremental steps in ensuring that we have greater human rights surveillance within the Australian community.

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

BROADCASTING SERVICES AMENDMENT (MEDIA OWNERSHIP) BILL 2002

Consideration of Senate Message

Message received from the Senate returning the bill and acquainting the House that the Senate has considered message No. 353 of the House relating to the bill, insists on its amendments (16), (20), (23), (24), (42) and (43) disagreed to by the House and desires the reconsideration of the bill by the House in respect of the amendments.

Ordered that the amendments be considered forthwith.

Senate's amendments—

(16) Schedule 2, item 4, page 12 (line 30), omit "if", substitute "provided".

(20) Schedule 2, item 4, page 13 (line 4), at the end of subsection 61E(1) (before the note), add:

; and (d) the application is not in relation to a set of media operations in a metropolitan licence area that includes a television broadcasting licence and a newspaper associated with the licence area.

(23) Schedule 2, item 4, page 13 (after line 5), after subsection 61E(1), insert:

(1A) The ABA must refuse to issue a cross-media exemption certificate if it relates to a set of media operations in a metropolitan licence area and the set includes a television broadcasting licence and a newspaper associated with the licence area.

(24) Schedule 2, item 4, page 14 (after line 6), at the end of subsection 61F(2), add:

; and (d) the entities, or parts of the entities, that run those media operations,

where those media operations involve a television station and one or more daily newspapers in the same market, have established an editorial board for the news and current affairs operation of the television station which will:

(i) have complete editorial control over the news and current affairs output of the television station, subject only to a right of veto by the entity over any story which is likely to expose the entity to a successful legal action for damages; and

(ii) consist of three members, one appointed by the entity, one elected by the staff of the news and current affairs operation, and an independent chair appointed by agreement between the entity and the Authority; and

(iii) have the power to ratify the appointment or dismissal of the news editor, who in turn shall have the power to appoint or dismiss all staff of the news and current affairs operation within the budget set by the entity; and

(iv) abide by any commercial objectives set by the entity and approved by the Authority consistent with the objectives of this Act and this section.

(42) Schedule 2, page 37 (after line 8), after item 8, insert:

8AA Before section 150

Insert:

150A Action by ABA in relation to a broadcasting service where complaint justified

(1) If, having investigated a complaint, the ABA is satisfied that:

(a) the complaint was justified; and

(b) the ABA should take action under this section to encourage a provider of a broadcasting service to comply with the relevant code of practice;

the ABA may, by notice in writing given to a provider of a broadcasting service, recommend that it take action to comply with the relevant code of practice and take such other action in relation to the complaint as is specified in the notice.

(2) That other action may include broadcasting or otherwise publishing an apology or retraction or providing a right of reply.

(3) The ABA must notify the complainant of the results of such an investigation.

150B ABA may report to Minister on results of recommendation

(1) If:

(a) the ABA has made a recommendation to a provider of a broadcasting service under section 150A; and

(b) the provider of a broadcasting service has not, within 30 days after the recommendation was given, taken action that the ABA considers to be appropriate;

the ABA may give the Minister a written report on the matter.

(2) The Minister must cause a copy of the report to be laid before each House of the Parliament within 7 sitting days of that House after the day on which he or she receives the report.

(43) Schedule 2, page 37 (after line 8), after item 8, insert:

8AB At the end of subsection 152(2)

Add "or providing a right of reply".

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (12.17 a.m.)—I move:

That the House insists on disagreeing to the amendments insisted upon by the Senate.

As I pointed out earlier, the government is not willing to accept the amendments. Senate amendments Nos (16), (20) and (23) prevent a cross-media exemption certificate being issued in a metropolitan licence area where the set of media operations includes a television broadcasting licence and the newspaper associated with that licence area. These amendments will curtail the competitiveness of smaller sized media firms and new entrants, who will not be able to attain the necessary economies of scale and scope to compete effectively against the larger incumbents. The amendments therefore perversely deny small and new players the key advantages of cross-media reform in the very markets where the range of voices is greatest.

Senate amendment No. (24) requires commercial television broadcasters operating under an exemption certificate that includes a newspaper to establish an editorial oversight board. This is an intrusion on the freedom of commercial broadcasters to make legitimate decisions about editorial content and staffing, such as the key position of the news editor. This amendment also imposes highly intrusive obligations on the proprietor to seek ABA approval of their commercial objectives. This has the potential to hamper severely the ability of commercial broadcasters to run a sound and workable business.

Senate amendment No. (42) would introduce new powers for the ABA to recommend that commercial media outlets publish apologies or provide a right of reply where it upholds a complaint that the outlet has acted contrary to a relevant code of practice. The Broadcasting Services Act 1992 already requires broadcasting industry sectors to have in place codes of practice, which must be registered by the ABA. Where the ABA finds that a broadcaster has breached a code of practice, its normal practice is to work with the broadcaster or the appropriate industry organisation to ensure that systems are in place to ensure that a breach will not reoccur. The results of an investigation by the ABA are also published, thereby causing embarrassment and criticism to the broadcaster concerned. The ABA has the power, if necessary, to impose binding industry standards. This is a framework which works effectively.

Senate amendment No. (43) would add a further example of action the ABA can recommend that the Australian Broadcasting Corporation and the Special Broadcasting Service undertake where it upholds a complaint that the broadcaster has acted contrary to a relevant code of practice. As I indicated previously, this amendment is unnecessary. The ABA already has adequate powers to investigate complaints and make appropriate recommendations to the national broadcasters. So the government does not accept any of these amendments.

The SPEAKER—The question is that the House insists on disagreeing to the amendments insisted upon by the Senate.

Question agreed to.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (12.20 a.m.)—I move:

That the bill be laid aside.

Question agreed to.

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002 [No. 2]

Consideration of Senate Message

Message received from the Senate returning the bill and acquainting the House that the Senate has considered message No. 349

of the House relating to the bill, does not insist on its amendments Nos (30), (33), (34), (37), (57) and (58) disagreed to by the House, does not insist on its amendments Nos (16), (23) and (32) disagreed to by the House and has agreed to the amendments made by the House in place of those amendments.

BILLS RETURNED FROM THE SENATE

The following bill was returned from the Senate without amendment or request:

National Handgun Buyback Bill 2003.

AUSTRALIAN HUMAN RIGHTS COMMISSION LEGISLATION BILL 2003

Second Reading

Debate resumed.

Mr ORGAN (Cunningham) (12.22 a.m.)—The Australian Human Rights Commission Legislation Bill 2003 proposes wide-ranging amendments to the structure and function of the Human Rights and Equal Opportunity Commission, or HREOC. The existing Human Rights and Equal Opportunity Commission has divided the proposed changes to the structure of the commission into three broad categories: firstly, amendments that impact on the independence, legal integrity and effectiveness of the commission by fettering the powers of the commission to intervene in cases before the courts that involve issues relating to the jurisdiction of the commission; secondly, amendments that impact on the structure of the commission and on the public's understanding and perception of the commission and its members; and, thirdly, amendments that remove the power of the commission to make recommendations for financial compensation where there is a finding of a breach of human rights or discrimination in employment.

All this is achieved in a number of ways: by abolishing the positions of the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Disability Discrimination Commissioner, the Human Rights Commissioner, the Race Discrimination Commissioner and the Sex Discrimination Commissioner; by restructuring the commission so that it consists of a president and three human rights commissioners; by preventing the president from delegating powers in relation to complaints of human rights breaches or discrimination in employment to the human rights commissioners or any other members of the commission; and by legislatively requiring that the commission use the by-line 'Human rights—everyone's responsibility'. The bill also contains an amendment to rename the commission the Australian Human Rights Commission.

While the commission has stated that it is generally supportive of the proposed change of name, the commission opposes all the other amendments either as being a threat to its independence or as not assisting or promoting its efficient and effective operation. The Australian Greens support the position of the Human Rights and Equal Opportunity Commission and are greatly disturbed and concerned by the government's proposed changes to the structure and functions of the commission.

HREOC has, up until now, determined which court cases it has sought leave to intervene in by reference to guidelines that it has put in place. Since its establishment in 1986 the commission has intervened in 35 cases. The significant cases that the commission has intervened in include: family law cases involving issues of consent to surgical treatment by children, and sterilisation of young women with disabilities; cases involving child abduction and the relevance of the

Convention on the Rights of the Child in relation to relocation of children; and the right of people with a transsexual history to marry. The court has intervened in cases involving general human rights issues including: international law and the extent to which administrative decision makers are obliged to take into account international human rights instruments in making decisions; inconsistency between state and federal legislation in relation to the criminalisation of homosexuality; freedom of political speech; the interpretation of the race power in section 51(xxvi) of the Commonwealth Constitution; and native title.

The Human Rights and Equal Opportunity Commission also intervened in refugee cases dealing with some of the following issues: section 474, the privative clause, of the Migration Act 1958; the rights of asylum seekers aboard the MV *Tampa*; guardianship of unaccompanied children; continued detention pursuant to section 196 of the Migration Act; continued detention after serving a criminal sentence and pending deportation; access by people in detention to legal representatives; applications for refugee status as a result of the one-child policy of the People's Republic of China; protection visas under the Migration Act; and coronial inquests into the deaths of asylum seekers following the sinking of the *Sumber Lestari*, which was referred to as the Ashmore Reef inquest. It also intervened in cases involving sex and marital status discrimination issues including access by unmarried women to IVF treatment, and the relationship between sex-based insults and sexual harassment.

The commission has never had an application for leave to intervene rejected by a court. The Australian Human Rights Commission Legislation Bill 2003 provides that the commission would only be able to intervene in a case with the Attorney-General's approval. It sets out the following matters that the Attorney-General could have regard to in deciding whether to approve the intervention: firstly, whether the Commonwealth, or a person on behalf of the Commonwealth, has already intervened in the proceedings; secondly, whether in the Attorney-General's opinion the proceedings may affect, to a significant extent, the human rights of persons who are not parties to the proceedings; thirdly, whether in the Attorney-General's opinion the proceedings have significant implications for the administration of the relevant act and other legislation implemented by the commission; and, fourthly, whether in the Attorney-General's opinion there are special circumstances such that it would be in the public interest for the commission to intervene.

These provisions of the Australian Human Rights Commission Legislation Bill 2003 are identical to provisions of the Human Rights Legislation Amendment Bill (No. 2) 1998, which lapsed in the 38th Parliament. The Senate Legal and Constitutional Legislation Committee conducted an inquiry at the end of 1998 and early 1999 into the Human Rights Legislation Amendment Bill. The Human Rights and Equal Opportunity Commission made a submission to that inquiry, arguing against the fettering of its intervention power. The committee's report recommended that the need for the Attorney-General's approval of a commission intervention be removed. The Commonwealth government reintroduced the Human Rights Legislation Amendment Bill (No. 2) in 1999 and moved amendments that removed the need for the Attorney-General's approval. This amendment bill (No. 2) was never voted upon and lapsed again. Recently all but one member of a Senate committee—the committee included coalition senators—looking at the proposed legislation voted to reject the

key provisions of the human rights commission legislation to curtail HREOC's powers to intervene in court cases.

The commission's intervention powers have been used in numerous cases involving important human rights principles. Sometimes this has embarrassed the government. So now the government apparently wants to exercise a veto over HREOC's intervention. This attempt to mute Australia's human rights watchdog is unacceptable and even coalition senators have recognised that it goes too far. This is the third time in five years that the government has tried to implement similar provisions.

The Greens consider the government's unwillingness to accept an independent human rights body to be deeply troubling. The government should abandon its campaign against the Human Rights and Equal Opportunity Commission and withdraw this bill. The proposed amendments to the commission's intervention power raise the following concerns for the commission and these concerns are shared by the Greens. They include, for example:

> The requirement to obtain permission may constrain the ability of the commission to raise important human rights and discrimination issues.

The effect of the proposed requirement could be to deny the commission the opportunity to argue human rights and discrimination issues before the courts. This is particularly likely to result in cases where the Commonwealth takes a different view of Australia's human rights commitments from that taken by the commission.

The ability to intervene in cases to raise issues of human rights and discrimination is an important function for the commission and contributes significantly to the promotion and protection of human rights and public education about their relevance and importance. The proposed amendment threatens to undermine the ability of the commission to continue to provide a robust and effective voice in this context and may limit the ability of courts to take relevant human rights considerations into account when deciding matters before them.

The commission maintains that the interests of justice and the community as a whole are best served by the advancement of a full range of views, including legal argument based on human rights principles. The requirement to obtain permission from the Attorney-General would seriously compromise the commission's independence. It is a fundamental principle that an independent national human rights institution must be unfettered in the performance of all its statutory functions, within the constraints of legality. The commission considers, and the Greens agree, that the imposition of a requirement for permission would be contrary to the principles relating to the status of national institutions, commonly referred to as the Paris principles. The Paris principles set out international minimum standards for national human rights institutions. They provide that a national institution vested with competence to promote and protect human rights shall:

> ... freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner ...

If the commission's intervention function is fettered in the manner suggested in this bill, it will be difficult for Australia to claim adherence to the Paris principles.

The commission is often described as being a model national human rights institution and it is one upon which other countries have modelled their human rights institutions. It is, therefore, ironic that the Attorney-General

has bragged about the quality of the commission's work in his second reading speech for this bill by saying:

> The government is proud that Australia has a human rights record that is among the best in the world and our national human rights institution is regarded as a leader in our region.

If the government considers this to be the case, perhaps it should leave the institution alone.

In addition to compromising its independence, the amendments introduced by the government also raise real issues of an actual or perceived conflict of interest, given that at times the Commonwealth would be party to a case in which the commission wishes to intervene. Of the 35 cases in which the commission has intervened to date, the Commonwealth has been a party in 18 and made submissions contrary to those of the commission in 16. By permitting the Attorney-General to determine when the commission may seek leave to intervene in a case, the amendments pre-empt the authority of the court to consider and determine whether it would grant leave to an intervener thereby preventing the commission from approaching the court directly. It is properly a matter for the court presiding over a case whether an intervener should be granted leave. The courts are experienced in making such an assessment and are able to do so in the context of the cases before them, with knowledge of the issues that are relevant to the cases and an appreciation of the issues that will be raised by all parties.

One of the rationales given by the Attorney-General for imposing the requirement that his approval be given prior to the commission seeking leave to intervene in cases is to:

> ... prevent duplication and the waste of resources and to ensure that court submissions accord with the interests of the community as a whole.

The commission is already bound by section 10A(1)(b) of the Human Rights and Equal Opportunity Commission Act to ensure that its functions are performed 'efficiently and with the greatest possible benefit to the people of Australia'. Therefore, the concerns of the Attorney are already a required part of the decision-making process of the commission in the exercise of its functions, including decisions to intervene in cases raising human rights issues. The commission also frequently seeks the advice of senior counsel on the appropriateness and benefit of its intervention in the particular proceedings before it makes an application to the court for leave to intervene. Furthermore, the issue of duplication of costs is a matter that the court considers and rules upon when it exercises its discretion to grant leave to a party to intervene. It is clear from numerous statements by the court that it will not grant leave to parties seeking merely to duplicate the submissions of parties already before it. If an intervener lengthens the hearing of the case and causes the parties to incur further costs in the process, the court is at liberty to order the intervener to pay such additional costs.

On the issue of ensuring that submissions accord with the interests of the community as a whole, the commission notes that all human rights issues are fundamentally and ultimately matters of interest to the whole community. However, any intervention by the commission must focus upon a particular issue of human rights raised by the facts of the case. The commission's role as intervener is to assist the court by placing before it relevant submissions on human rights and discrimination law pertinent to the case. The Australian Greens reject any suggestion that

the commission's interventions are a wasteful use of public moneys. The cost of the commission's 18 interventions over the last three financial years has been approximately $200,000. That is about $11,000 each. This amount reflects a mere 0.5 per cent of the commission's total budget during that period. The commission is able to conduct its interventions on such a modest budget by virtue of the fact that many of the senior counsel engaged by it provide their services on either a pro bono or a reduced rate basis, and are often prepared to appear before the commission without the need for junior counsel.

The human rights commission bill proposes to alter the structure of the commission so that it would consist of a president and three human rights commissioners. There is to be no division of portfolio responsibilities among the three human rights commissioners. The restructuring that would be effected by the Australian Human Rights Commission Legislation Bill is unnecessary to achieve the government's objectives, and will be unworkable and confusing. Its impact will be to reduce the status of each member as an expert providing leadership to the nation in his or her area of functional responsibility. The overall effect will be to downgrade by generalising Australia's commitments to the promotion of human rights and the elimination of discrimination both domestically and internationally where the portfolios of the current commissioners reflect key international human rights obligations.

The main concerns with the abolition of specialised commissioners have centred on: firstly, the loss of the expertise that specialised commissioners bring to their positions; secondly, the loss of a publicly identifiable advocate for particular groups vulnerable to discrimination and human rights abuses; and, thirdly, the undermining of the advocacy and educational role of the commission. Particular concern has been expressed in relation to the loss of a specialised Aboriginal and Torres Strait Islander Social Justice Commissioner. A number of Aboriginal organisations, legal and church based groups, academics, and non-Indigenous civil liberties organisations strongly advocate the retention of this position. Among those who made submissions was the former Royal Commissioner into Aboriginal Deaths in Custody and former Deputy President of the Native Title Tribunal, the Hon. Hal Wootten AC, QC. He argued that the complex nature of the issues facing Indigenous Australia meant that it was crucial to have an independent, specialised and informed commissioner able to keep the issue of Indigenous human rights before the government.

The government has been irritated in recent years by HREOC's intervention in court proceedings on a raft of issues to protect human rights in this country. In order to deal with this problem, the government is seeking to severely limit the independence of the Human Rights and Equal Opportunity Commission. There has been outspoken opposition to this bill from around the country. One vocal opponent to the changes was the government's appointee, the departing president of the commission, who vowed to 'fight to the death' attempts by the government to curb the commission's influence in the court system. Professor Tay said that, if the legislation got through, she would be 'passing on to the new president a very much inferior set of responsibilities'.

The Attorney-General of Victoria, Rob Hulls, commented:

> This is a gross and, in my view, improper political interference with our national human rights watchdog.

As the Queensland Anti-Discrimination Commissioner, Susan Booth, put it:

> Every Australian deserves their human rights protected by a strong and independent HREOC.

As the member for Cook correctly pointed out, the Australian people and Australia as a nation have a proud human rights record. But this proud record is being threatened by issues such as our treatment of asylum seekers and children in detention, and the sad state of the health and welfare of Aboriginal people in this country. Because this bill threatens that proud record of dealing with human rights and equal opportunity issues, the Greens cannot support it.

Ms JULIE BISHOP (Curtin) (12.41 a.m.)—In order to give context to this debate on the Australian Human Rights Commission Legislation Bill 2003, and particularly at this hour, the relatively recent history of rights has much to offer us in understanding how and why Australia has a human rights commission, as well as exposing the myths, fallacies and realities of the rights agenda in this country.

The liberal belief in the fundamental rights of the individual is often believed to have arisen in the fires of the French Revolution—in the clarion call of 'Liberte, egalite, fraternite' and the egalitarian whoosh of the guillotine. But such an impression would be mistaken. The real source of modern liberty lies in the English common law and the parliaments of Westminster that emerged from the royal councils of the medieval kings and evolved through the Reformation, the revolutions of the 1640s, the Restoration and the Glorious Revolution of 1688.

That spirit of liberty was fermented in Westminster, tended by members of parliament and judges of the English tradition. Yet it was not until the events of the 1770s—the intoxicating brew of taxation revolt, nascent nationalism, youthful exertion, imperial neglect and a benign security environment—that the wine was bottled, for it was the American Revolution that changed the world, not the mobs in Paris in the following decade. The revolutionaries drafted the 1776 declaration, which said:

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that amongst these are life, liberty and the pursuit of happiness.

In doing so, they fundamentally changed the nature of individual freedom in modern society. That freedom would flow back across the Atlantic to its parliamentary home, shake the ground beneath tyrants for two centuries—and counting—and even hold within its lyrics the coming destruction of the stain of slavery.

Fundamental to this revolution of liberty was the realisation that liberty meant more than just parliamentarianism. It meant freedom from unjust laws and wrongful regulation, from the depredations of assemblies as much as of martinets and despots. As the second president of the United States, John Adams, wrote to his lifelong friend and political rival Thomas Jefferson in 1815:

> The fundamental article of my political creed is that despotism, or unlimited sovereignty, or absolute power, is the same in a majority of a popular assembly, an aristocratic council, an oligarchical junta, and a single emperor.

It had after all been a parliament that had provoked the rebels to action, not simply the insensitivity and foolhardiness of George III. Many of those rebels, particularly those associated with the great federalist party of the 1790s—George Washington, Alexander Hamilton and Adams himself—would come to see in the French Revolution the very inversion of the principle articulated to Jefferson. The Rousseau inspired madness and ter-

ror in Paris, the massacres of the peasantry and the execution of the king and his queen were expressions of the general will, not the freedom and dignity of the Englishman in his home or the American on his holding. When our founders came to draft a constitution for Australia in the 1890s they drew on not only their long experience as colonial politicians and the parliamentary traditions of Westminster but also the federalism of the United States and the democratic populism of the Swiss cantons. Nonetheless, they were reluctant to graft onto the Commonwealth Constitution a bill of rights, in contrast to the constitution of the United States. In fact, the original United States constitution—attended in its birth by a remarkable but flawed genius in Hamilton—did not include a declaration of rights.

It was the growing pressure of the Democratic-Republican movement, bolstered by its latter-day alliance with the antifederalists and the need to placate sceptical majorities in hold-out states such as Rhode Island, North Carolina and Vermont that led to the inclusion of 10 amendments known to us as the bill of rights. Ratified on 15 December 1791, we know these articles as: the first amendment, the exercise of freedom of religion, speech and the press and the right of petition; the second amendment, the right of people to bear arms, not to be infringed; the third, fourth and fifth amendments in relation to quartering of troops, unreasonable searches and seizures and fair trials and just compensation respectively; the sixth amendment, in relation to civil rights in trials; the seventh in relation to civil suits; the eighth concerning bail, punishment and fines; and the ninth and 10th amendments, which reserve rights of the people and the states respectively.

The substance of the bill of rights was echoed in the dictum by the great Victorian era political philosopher John Stuart Mill, when he wrote:

> The liberty of the individual must be thus far limited; he must not make himself a nuisance to other people.

Our founders felt no such compunction for codification. They believed that the rights of Britons—and, by extension, the rights of Australians—were well served by responsible parliaments, a circumspect executive and the majesty of the common law. Their argument did not lack its own intellectual pedigree. Jeremy Bentham, the noted English philosopher and social reformer—better known to us as the father of utilitarianism—had made plain his own opposition to the natural rights theory. In his work *Anarchical Fallacies* he stated:

> Right ... is the child of law; from real law come real rights, but from imaginary laws of nature, fancied and invented by poets, rhetoricians and dealers in moral and intellectual poisons, come imaginary rights, a bastard brood of monsters.

Men like Deakin, Reid, Barton and Kingston, amongst others, were not necessarily utilitarians but they were empiricists. They saw the alliance of responsible parliaments, fair courts and wary governments as guarantees of freedom in a fashion that rendered natural rights at best bunting and at worst mere words. That tradition continues largely to this day. We as a nation have resisted the temptation to adopt as constitutional law a rights agenda. Attempts to insert tentative moves in this direction were overwhelmingly defeated at popular referenda in 1984 and 1988. Perhaps the fine example set in the United States has been offset by the mocking irony of constitutional guarantees that 'protected' citizens in Stalin's Russia and in dozens of tin-pot dictatorships. Nevertheless, Australian governments have recognised the utility of modern rights theory to good governance in the tradition of the first article of the 1948

tradition of the first article of the 1948 Universal Declaration of Human Rights:

> All human beings are born free and equal in dignity and rights.

Criticism might be made of this mishmash of Rousseau and Jefferson, and harsher words still could be reserved for the efficacy of United Nations dictates, which are seldom observed, by definition, by tyrants. Yet the universal declaration has inculcated an acceptance of individual rights, even in communities such as ours that have historically relied on tradition to secure freedoms. It was in this spirit that the original Human Rights Commission was founded in Australia in 1981 by the then Fraser government, in order to give effect to the International Covenant on Civil and Political Rights, the Declaration of the Rights of the Child, the Declaration on the Rights of Mentally Retarded Persons and the Declaration on the Rights of Disabled Persons. The commission was also given responsibility for the implementation of the Racial Discrimination Act 1975 and, after 1984, the Sex Discrimination Act. In December 1986 the commission was reborn as the Human Rights and Equal Opportunity Commission—HREOC—and later granted further powers in relation to international agreements on labour relations and disabilities.

Seven years later the special office of the Aboriginal and Torres Strait Islander Social Justice Commissioner was incorporated into HREOC's structure with special responsibilities in relation to Indigenous Australians. While the Human Rights Legislation Amendment Act (No. 1) 1999 made some alterations to the procedures and functions of the commission, HREOC has remained largely untouched by administrative reform. For this reason, and in order to, in the words of the Attorney-General, 'provide the commission with a framework to undertake its future work efficiently and effectively', this bill has been introduced into the parliament. The legislation represents the implementation of a promise made by the government to the Australian public in its 2001 election policy and will allow the commission, renamed the Australian Human Rights Commission, to tackle new areas of responsibility—such as the increasing problem of age discrimination—and better address discrimination that crosses jurisdictional boundaries, for example, the difficulties faced by women with disabilities.

Three human rights commissioners will replace the present structure based on portfolio specialisation. Each commissioner, alongside the commission president, will act to safeguard the rights and responsibilities of Australian citizens. The president will have special responsibility for complaint handling but will be ably assisted by qualified persons acting as complaints commissioners. Those complaints commissioners will not replace the appointed commissioners but will act at the direction of, and in aid of, the president.

The Attorney-General has also highlighted the important new role to be played by the commission in educating Australians about their rights and their responsibilities to their fellow citizens. By prevention through education, the commission can better serve the public than through actions after the event. So the highest priority for the new Australian Human Rights Commission will be to educate individuals, businesses and governments about their responsibility to respect human rights. Education is the key to a society in which human rights are respected by all. Education is already an important focus of the existing Human Rights and Equal Opportunity Commission, but this bill supports the commission's approach to protecting and promoting the human rights of all Australians

by giving greater legislative priority to education and the dissemination of information about human rights.

The commission's by-line will be 'Human rights—everyone's responsibility', a sentiment in accord with Australian political culture and history that I believe will be embraced by the public. This by-line was suggested by HREOC to make it clear that it is not only the government or the commission but all of society that has a responsibility to uphold the human rights of others; hence, the by-line 'Human rights—everyone's responsibility'. There has been a danger in the past—a danger, perhaps, of perception but a danger nonetheless—that HREOC was the enforcer of rights law rather than its guardian and that HREOC's mission was foreign to Australian beliefs rather than their embodiment. I hope that in its new configuration the commission will not be so regarded.

Other initiatives will allow the commission to seek leave, with the approval of the Attorney-General, to intervene in court proceedings that raise issues of human rights. The bill lists broad criteria for the Attorney-General to consider in making this decision. This will ensure that the wider interests of the Australian community are taken into account in the exercise of the intervention function. To ensure that no constitutional issues arise, where a federal judge is appointed to the position of president, the Attorney-General's approval for seeking leave to intervene in court proceedings will not be required. In this case, the new commission will notify the Attorney-General of its intention to seek leave to intervene and its reasons for doing so. Of course, the Federal Court judge Mr Justice von Doussa has been appointed, so this issue will not arise. The commission will continue to be able to assist the Federal Court as amicus curiae in proceedings arising under federal antidiscrimination legislation without approval from the Attorney-General.

Another initiative is to remove the commission's powers to recommend the payment of compensation and damages, thereby encouraging parties in disputes to reach practical resolutions rather than financial remedies. The commission will retain its power to make practical recommendations for action to remedy or reduce loss or damage suffered by a person as a result of an act or practice inconsistent with a person's human rights or constituting discrimination. However, this power will no longer include the power to recommend the payment of compensation or damages. This will improve the balance between choices of remedies by encouraging parties to find practical and genuine solutions to their disputes rather than focusing on financial compensation. It will enhance the importance of non-financial remedies, such as apologies, which would obviously be appropriate in a great number of circumstances. It is a remedy we do not see often enough in courts. Non-financial remedies, including apologies, will be highlighted as being as important in rectifying complaints as financial remedies.

The bill will also remove the provisions establishing the Community Relations Council and advisory committees, these bodies being redundant. To this day, no members have ever been appointed to the council. The provision for the establishment of this Community Relations Council will be removed. The provision for the establishment of advisory committees will also be repealed. The commission will retain its power to work with and consult appropriate persons, governmental organisations and non-governmental organisations.

It would be remiss of me not to observe in these comments on the second reading that

this bill has occasioned some controversy—at least within the ranks of the opposition, the minor parties in the other place and for the member opposite, as we heard in his speech earlier. I think that controversy is symptomatic of a tendency of some on the left to place form ahead of substance—in this case, to put rhetoric on rights before its reality. Rather than understanding the role of HREOC as an important adjunct to the constitutional, parliamentary and legal freedoms of this Commonwealth, these advocates have confused the appointed commission with the ultimate arbiter of rights. This is extraordinarily dangerous, given the growth in the pseudo rights industry in this country and the consequent disapproval on the part of the broader community. It is evident in the ever more extreme claims made in the public arena about human rights in this country. Australians understand the role of the commission to be essentially educative and mediatory. They know and respect the work of the commission. They understand that our freedoms are primarily secured in this place, in our courts and in our venerable Constitution.

The opposition cannot imagine away the results of the 1988 referendum. It cannot pretend that this is Canada. Australian voters do not want a constitutional bill of rights, and it matters not a jot how many academic seminars are held on the subject in the total absence of public support. Thirty years ago, the then Attorney-General, Lionel Murphy, attempted a statutory bill of rights. In 1985 the then Attorney-General, Gareth Evans, introduced the Australian Bill of Rights Bill. Both attempts failed. These attempts may have generated public debate but they did not change the public attitude to a bill of rights. More recently Senator Lees, at the time a member of the Australian Democrats, introduced the Parliamentary Charter of Rights and Freedoms Bill 2001, which seems to have sunk without trace.

Australians understand our nation's history of involvement with the development and recognition of human rights nationally and internationally, but they likewise value our institutions that uphold their rights and their freedoms. The Human Rights Commission ought to be a practical body undertaking practical and appreciated work. It is not an alternative parliament; it is not, and should not be, a repository for political advocacy. This bill does not muzzle HREOC, as Senator Greig said; it does not, to quote the member for Barton, 'gut human rights protections'. The bill will make the Human Rights Commission more flexible and more effective. The bill will make the Human Rights Commission better able to serve its fundamental purpose: the promotion of human rights in Australia. Surely that aim ought to be applauded and not opposed. I commend the bill to the House.

Mr ANDREN (Calare) (1.01 a.m.)—I rise to speak on the Australian Human Rights Commission Legislation Bill 2003. I thank the member for Curtin for a wonderful journey through the history of human rights. God forbid we ever become a tin-pot dictatorship. This is a lucky country. The member for Curtin tells us why we do not need a bill of rights: we may expect to live safe and happy lives in this country; we need not suffer discrimination or abuse of our rights; we may seek redress for any discrimination or abuse of our rights, protected by a legislative framework; and we can be assured that our government does not seek to interfere with fair and due process. This is a country that has always told itself a story of fair go and equal opportunity for all—a country where one individual is just as free as the other to

pursue the upholding of their rights through an independent body which can advise, advocate and act on our behalf in the protection of our rights, even and especially when it is the Commonwealth which seeks to oppose those rights. This is the story we keep telling ourselves, but is it true?

We live in a time where the framework for a fair and just society is being dismantled bit by bit. In the name of security and individual responsibility, with attention diverted by an uncertain world and fear, nodding its head in agreement, this government has brought in legislation that basically serves to vilify and abuse the rights of terrified people seeking help and safe refuge from tyranny. This government continues to imprison some of those same people in poor Pacific countries without adequate infrastructure, out of reach of the framework of protection afforded by Australian laws. It uses prisons run by a private organisation that has abused duty of care and that is not required to be answerable to government—the same government that shamefully denied UN human rights representatives access to those prisons.

This is a government that, incredibly, will appeal against a Family Court decision to not allow the government to keep children locked up indefinitely in our disgraceful detention centres. This is a government that sought, until the sanity of the Senate prevailed, to detain children from 10 years old indefinitely to be questioned by our intelligence agency, without representation, without charge and without even having to be suspected of any wrongdoing.

As the only developed common law country without a bill of rights to protect its citizens, it is patently clear that Australians lack any legislative guarantee that their rights and freedoms will be upheld and protected by the government of the day. In the current demonstrated absence of government commitment to rights and freedoms, the Human Rights and Equal Opportunity Commission in Australia plays a critical role in the protection of those very rights and freedoms even our own government seeks to dismantle. The commission's power to speak and act for those who are affected by breaches to human rights or discriminatory action is fundamentally important and must not be compromised—and its independence should never be diminished. But this government, with the Australian Human Rights Commission Legislation Bill 2003, is seeking to do just that.

Since the act commenced in 1986, HREOC has been able to seek the leave of the court to intervene as an independent body in proceedings that involve issues relating to the human rights and discrimination jurisdiction of the commission. The commission may assist the court by giving evidence and making submissions in relation to key human rights or discrimination issues in the proceedings, where those issues are not being addressed by the parties to the proceedings, and it follows published guidelines in doing so. It is well recognised that the commission has been able to make important contributions in terms of its expertise and specialisation in such matters before the courts.

In introducing this bill the Attorney-General presented a view that duplication and waste of resources arise from the way HREOC is able to carry out its current vital role as guardian of human rights in Australia. It is worth noting briefly that, although HREOC's budget has been slashed and two of its commissioners have not been replaced, HREOC itself has kept its costs in intervention matters very low. In the first instance, the issue of duplication and cost is considered by the court whenever an application to intervene is made. The fact that in over 17

years, under successive presidents, the commission has never been refused court leave to intervene and has spent only 0.5 per cent of its budget in such cases is telling.

The commission has been judicious in using this function. It has sought to intervene only where it has considered a case raised a significant human rights or antidiscrimination issue that the parties would not present to the court adequately or at all. In over 17 years the commission has been granted leave to intervene in about 35 matters before the courts and has never had an application to seek leave to intervene rejected by a court. That brings me to the point that I believe is at the heart of the bill. The Commonwealth has been a party in 18—that is, over half—of those matters. Out of those 18 cases, the commission has intervened in 16 cases where the Commonwealth was putting forward a strong opposing argument—that is, HREOC was given leave by the courts to intervene to protect people's human rights and freedoms against government actions in just under half of all the cases in which they have been involved.

Remember that point, because this bill would determine that HREOC would be able to exercise its intervention function only with the federal Attorney-General's consent and that approval need not be sought if the president of the commission is, or was immediately before appointment, a federal judge, in which case the Attorney-General would have to be notified and given written reasons a reasonable time before the application to the court. This raises other issues, which I will come to in a minute. Not only does this clearly usurp the authority of the court to determine if it shall grant leave to an intervener by preventing HREOC approaching the court directly; it effectively white-ants the independence of the commission. Remembering that nearly half the cases in which the commission has intervened have involved the Commonwealth as respondent, it takes no stretch of the imagination to understand the totally inappropriate role of government as gatekeeper, with the power of veto to determine who should be permitted to intervene in cases against them.

To say this presents a conflict of interest is an understatement, for this would allow political control in situations where independent intervention would be most important. This would allow government to stop the Human Rights and Equal Opportunity Commission intervening against the interests of government in human rights litigation and, moreover, from representing those who are most disadvantaged and most vulnerable by the very nature of such situations. The idea that one party to a case may decide if another party is entitled to join is perverse and cannot be supported in any way. Furthermore, there is no express or implied effective review mechanism and the power of the Attorney-General to grant the right to intervene is not circumscribed, except where the president is a former judge. In that case, explicit ministerial approval is not required, but written notice must be given within reasonable time before the intervention, which brings me to two other issues.

This bill proposes a regime of two classes of president, one of whom, if not a federal judge or ex-judge, must gain the permission of the Attorney-General to perform one of the commission's important statutory functions. This effectively suggests that a president of the commission who has never been a judge is not considered to be able to exercise the intervention function with integrity. This itself is insulting to those appointed to the position of president who are not Federal Court judges. Not only that, but it needs to be re-

membered that the Attorney-General need only appoint non-judiciary persons as presidents to ensure veto of intervention cases. While a president who is or has been a judge is not required to seek permission to intervene, that person must give the Attorney-General written notice of the commission's intention to seek leave to intervene, together with a statement of why the commission considers it appropriate to intervene.

HREOC's current guidelines already require the commission to give notice of intention and the reasons to intervene to the Attorney-General's office and the human rights branch of his department as soon as practicable after the commission decides to apply to intervene. Furthermore, urgent cases have existed where there is very little time—sometimes overnight—available between a decision to seek leave to intervene and the action necessary to apply to the court. And, as noted in the Senate Legal and Constitutional Legislation Committee, present HREOC guidelines are more specific, comprehensive and exclusive than are the factors set out in this bill. Again, while there is no current statutory requirement that HREOC report annually on each of the proceedings in which it seeks leave to intervene, the commission's annual reports do provide a summary of most of these matters. I do not have a problem if the government sees a need to actually legislate to ensure that this present arrangement continues.

I also do not support the provisions to remove the commission's power to recommend damages or compensation. Such orders are not legally enforceable; however, to deny a person who has been found to have suffered a human rights breach, particularly in relation to loss of wages due to discrimination in employment, even a recommendation that their experience has an accepted monetary value is unfair. Further, HREOC suggests that such recommendations may nevertheless be morally persuasive, particularly in employment matters, and encourages the respondent to settle a complaint without the need for litigation. It is also worth noting that, in 27 per cent of all cases where a recommendation is made that compensation or damages be paid, the payment is in fact made. However, the Commonwealth, which is generally the subject of complaints of human rights violations, rarely if ever accepts the recommendations anyway. As suggested in the submission of the Human Rights Council of Australia to the Senate inquiry, perhaps this provision is to spare the Commonwealth the embarrassment of receiving recommendations to pay compensation.

Another concern raised is regarding the provisions in the bill to abolish the specialist commissioners—the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Disability Discrimination Commissioner, the Human Rights Commissioner, the Race Discrimination Commissioner and the Sex Discrimination Commissioner—and replace them with just three generalist commissioners. The government's stated reasons for this are to give the commissioners greater flexibility to deal with current human rights issues which cut across the boundaries of the existing specialisations, such as women with disabilities, and the ability to respond to emerging areas, such as age discrimination. I do not understand how three generalist positions can possibly offer a more expert service than the five specialist ones. I am concerned at the removal of the express requirements for a commissioner to be responsible for Indigenous issues and to possess experience in the community life of Aboriginal people and of Torres Strait Islanders. I think of the great work of Bill Jonas, the Indigenous commis-

sioner who has served his people, Aboriginal justice and public understanding of the Aboriginal situation with such distinction in an area that demands a full-time position.

I note that the government has failed to replace two specialist commissioners since September 1999, and the commission has been doing a great job with the remaining three specialist commissioners—with the Human Rights Commissioner and the Aboriginal and Torres Strait Islander Social Justice Commissioner acting as Disability Discrimination Commissioner and Race Discrimination Commissioner respectively. While I question the intent to permanently reduce the number of commissioners, if this is to be so, surely it makes sense to retain areas of specialisation that can be added to. Certainly it would seem, on the record, that the commission already has the flexibility to successfully deal with issues involving human rights that cut across the boundaries of existing specialisations and emerging human rights areas, such as age discrimination. I would also prefer to deal with an identified advocate who I know has extensive knowledge and experience in the issue to hand. It is also important that that the commissioners can be clearly identified by their constituencies.

I also remain sceptical of the government's proposal to 'refocus' the commission's work by making education and dissemination of information on human rights the central focus of the new commission's functions. HREOC agrees with the importance of education about human rights and already provides substantial education. In the 2001-02 financial year the commission distributed over 95,000 copies of its publications, with 50,000 of these as a result of direct requests from members of the public. As has been noted, the current paid maternity leave debate has been given impetus by the current Sex Discrimination Commissioner, an example of such public education. I do wonder whether a legislative requirement for the commission to direct its resources to education as a primary objective is perhaps another way of undermining the ability of the commission to scrutinise activities of the government—of reducing its power to investigate and advocate.

There are other changes I question the need for. This bill provides for the appointments of part-time legally-qualified complaints commissioners, who would be delegates of the president but not members of the commission. The Attorney-General would determine the terms and conditions of appointment and may terminate such appointments at any time. The rationale for this proposed amendment is to provide an option for managing complaint-handling workloads. Currently the president is able to delegate inquiry powers in relation to breaches of human rights or discrimination in employment to any of the commissioners. Having said that, it seems that no undue delays in processing complaints or issues with the president's complaint-handling workload exist. There is also the potential to detract from the cohesiveness of the members of the commission by introducing more external people into the complaint-handling process over whom the president will have no control in areas that are essential to effective and efficient complaint handling, such as the meeting of time frames and deadlines and consistent decision making. Further, dismissal of any person should never be at the behest of the Attorney-General; it should only ever be on the usual judicial basis of misconduct.

While I do not see the need to change the name of the Human Rights and Equal Opportunity Commission, the title of 'Human Rights Commission' is less a mouthful, and I

would agree that the concept of equal opportunity is implicit in the title of human rights. However, the idea that a slogan of 'Human rights—everyone's responsibility' needs to be legislated strikes me as somewhat frivolous. Surely the commission is best placed to determine what by-line is used in a flexible way according to changing circumstances and priorities, without requiring the approval of the parliament to do so? Surely 'everyone's responsibility' includes the government's responsibility? Indeed, it is mutual responsibility—I have heard that one before. Yet, ironically, this bill seeks to diminish the powers and independence of the very body that watches over the government's responsibility, or lack thereof, to uphold and respect the human rights of people reliant on its care. As you may have gathered, Mr Deputy Speaker, I do not support this bill.

Mr WILLIAMS (Tangney—Attorney-General) (1.18 a.m.)—I find it extraordinary that the Labor Party, which is so opposed to this Australian Human Rights Commission Legislation Bill 2003, has presented one speaker off the list of some 16 speakers who were due to speak on this bill. The shadow Attorney-General, the member for Barton, gave a speech in which he agreed with absolutely nothing, suggesting that the structure of the human rights commission is something not worthy of further consideration by this parliament. We had on the list the member for Lalor, the member for Grayndler, the member for Gellibrand—

Mrs Crosio—And two members from the government.

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Prospect!

Mr WILLIAMS—the member for Ballarat, the member for Denison, the member for Sydney, the member for Throsby, the member for Fremantle, the member for Canberra, the member for Newcastle, the member for Chisholm—

Mrs Crosio—Mr Deputy Speaker, I draw your attention to the state of the House.

The bells having been rung—

Mrs Crosio—There were 16 of our speakers, two of yours.

Mr WILLIAMS—You want to hear about human rights?

Mrs Crosio—Yes, we do.

Mr WILLIAMS—No, you don't.

The DEPUTY SPEAKER—I remind both the Attorney-General and the member for Prospect that order is required during a division or a quorum.

(Quorum formed)

Mr WILLIAMS—I would like to start again in naming those members of the opposition who were down to speak who did not turn up to speak. There was the member for Lalor, the member for Grayndler, the member for Gellibrand, the member for Ballarat, the member for Denison, the member for Sydney, the member for Throsby, the member for Fremantle, the member for Canberra, the member for Newcastle, the member for Chisholm, the member for Lingiari, the member for Shortland, the member for Calwell and the member for Reid. Not one of them has turned up to talk about an important bill relating to the restructuring of the human rights commission.

Mrs Crosio—Mr Deputy Speaker, I rise on a point on order. While welcoming the Attorney-General's reply, which has been brought on an hour or two earlier than what he expected, my point of order is that I would like to have honesty. If the Attorney-General is going to read those members who were listed, I want the members of government too who were listed.

The DEPUTY SPEAKER—The member for Prospect will resume her seat. The member for Prospect is skating on very thin ice.

Mr WILLIAMS—Mr Deputy Speaker, as you have already pointed out, that was no point of order. I delivered the second reading speech. I turned up to do it. The member for Cook put his name down to speak; he turned up and spoke. The member for Curtin put her name down to speak, and she turned up. There have been some very good contributions from this side. The member for Barton is the only person on the other side who has turned up. He gave a speech that rejected absolutely every element of the bill on the basis that he was responding to the constituencies to which he was accountable and not dealing with the issues on the merits at all. I was very disappointed in the member for Barton's speech. In ordinary circumstances, in summing up I would thank honourable members for their contributions to this debate. In this circumstance, I thank members of the government for their contributions to the debate.

This bill will provide Australia's national human rights institution with a framework to undertake its future work efficiently and effectively. The new commission, to be named the Australian Human Rights Commission, in line with the names of other human rights commissions in our region, will consist of a president and three human rights commissioners. Transitional provisions provide for the continuity of the current president's appointment and provide that each existing commissioner will hold office as a new human rights commissioner for a period equivalent to the remaining period of the person's appointment as a commissioner of the Human Rights and Equal Opportunity Commission. I note that the member for Reid has turned up. The member for Reid was actually down at the bottom of the list to speak from the opposition, but he has not spoken and does not look like speaking.

The existing commission is not in the best position to deal with the wide range of human rights problems that face a modern society like Australia. Discrimination issues do not always come in neat packages such as 'sex' or 'disability'. The existence of the current subject-specific commissioners can create the impression that some human rights have precedence over others. The government believes that the introduction of generalist human rights commissioners, who as a group will be required to have experience in the variety of matters likely to come before the commission, is the best way to maintain and promote the human rights of all groups within Australia.

The functions of the new commission will remain the same. All subject areas previously covered will continue to be covered. This includes Aboriginal and Torres Strait Islander issues and issues of sex, disability and racial discrimination. The commission will retain responsibility for establishing its administrative support structure, so it will be open to the new commission to continue to have the administrative support of the current specialist policy units. But the bill will provide the commission with a flexible structure, so that it can deal with the variety of issues likely to come before it. The bill makes human rights education the primary focus of the commission. This is based on a recognition that experience over recent decades has shown that education is the most powerful way of producing widespread systemic change so that people respect diversity and the dignity and worth of each human being.

The inclusion in the bill of a by-line, 'Human rights—everyone's responsibility', to be used by the commission in conjunction with

its name, supports the legislative refocus of the commission's functions. This refocus is not at the expense of the commission's important complaint-handling role. The commission will continue to conciliate complaints of discrimination under the federal antidiscrimination acts. The bill completes the government's policy of centralising responsibility for complaint handling in the president of the commission and, in order to provide greater flexibility for managing complaint-handling workloads, the Attorney-General will be able to appoint legally qualified persons as complaints commissioners, on a part-time basis, to assist the president. The complaints commissioners will have the mix of skills required to be both effective conciliators and to provide the legal rigour that is critical for the preparation of reports into complaints made under the Human Rights and Equal Opportunity Commission Act 1986.

The government rejects any suggestions that the provision requiring the commission to obtain the Attorney-General's approval before seeking leave to intervene in a court case undermines the independence of the commission. The government strongly disagrees that it is inappropriate to require that the commission obtain approval when it wishes to seek leave to intervene in court proceedings. The government accepts that it is legitimate and important for a national human rights institution to be able to criticise governments. However, the Attorney-General, who is the first law officer of the Commonwealth, is specially placed to make decisions about whether an intervention will be in the best interests of the community as a whole. In addition, the requirement for approval will ensure that public resources are not inadvertently wasted in instances where the Commonwealth and the commission are submitting similar or identical arguments in a particular court case.

I note that where the commission's president is, or was immediately before appointment as president, a federal judge the proposal is that the commission notify the Attorney-General in writing of its intention to seek leave to intervene, accompanied by a statement of reasons for doing so. Justice von Doussa, a former judge of the Federal Court, was appointed president of the commission from 10 June 2003. The provision for notification will apply during his term as president.

The government rejects the argument that the bill contravenes the Paris principles. These principles relate to the responsibilities and independence of national human rights institutions. The government accepts that it is legitimate and important for a national human rights institution to be able to freely criticise governments, including by appropriately intervening in court cases and making submissions contrary to the views of the government. The government believes that the reforms proposed by the bill are entirely consistent with the Paris principles. The commission will also retain its ability to seek leave to assist the Federal Court or the Federal Magistrates Service as amicus curiae, or friend of the court, in proceedings arising under federal antidiscrimination legislation. All the new commissioners will be able to perform this separate function.

The government acknowledges the recommendations of the Senate Legal and Constitutional Legislation Committee's inquiry and report into the bill. The government is considering the report. The government is aware of the views of stakeholders presented to the committee and believes that the bill appropriately implements the government's policy.

This bill is about positioning the commission to allow it to undertake its future work in a flexible and efficient manner to meet the needs of today's complex society. It is a further demonstration of the government's commitment to human rights. It is in stark contrast to the lack of commitment on the part of the opposition to the subject of human rights in this debate. It reflects very badly on the opposition that they have abdicated their responsibility for debating issues as important as the restructuring of the Human Rights Commission in this House and are leaving it to the other place. It demonstrates that this opposition have no real interest in doing anything but opposing and obstructing. I commend the bill to the House.

Question put:

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

The House divided. [1.37 a.m.]

(The Deputy Speaker—Hon. I.R. Causley)

Ayes……	69
Noes……	18
Majority……	51

AYES

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

Andren, P.J.	Bevis, A.R.
Cox, D.A.	Crosio, J.A.
Danby, M. *	Ferguson, L.D.T.
Ferguson, M.J.	Grierson, S.J.
Griffin, A.P.	Irwin, J.
Jenkins, H.A.	Latham, M.W.
O'Connor, B.P.	Organ, M.
Quick, H.V. *	Ripoll, B.F.
Smith, S.F.	Wilkie, K.

PAIRS

Anderson, J.D.	Sercombe, R.C.G.
Andrews, K.J.	Fitzgibbon, J.A.

* denotes teller

Question agreed to.

Original question put:

That this bill be now read a second time.

The House divided. [1.44 a.m.]

(The Deputy Speaker—Mr I. R. Causley)

Ayes……	70
Noes……	18
Majority……	52

AYES

Abbott, A.J.	Anthony, L.J.

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

Andren, P.J.	Bevis, A.R.
Cox, D.A.	Crosio, J.A.
Danby, M. *	Ferguson, L.D.T.
Ferguson, M.J.	Grierson, S.J.
Griffin, A.P.	Irwin, J.
Jenkins, H.A.	Latham, M.W.
O'Connor, B.P.	Organ, M.
Quick, H.V. *	Ripoll, B.F.
Smith, S.F.	Wilkie, K.

PAIRS

Anderson, J.D.	Sercombe, R.C.G.
Andrews, K.J.	Fitzgibbon, J.A.

* denotes teller

Question agreed to.

Bill read a second time.

Consideration in Detail

Schedule 1—by leave—taken as a whole.

Mrs CROSIO (Prospect) (1.46 a.m.)—This side of the House has no problem with schedule 1. Schedule 1 mainly covers issues to do with titles, particularly where they are substituting the name Australian Human Rights Commission for Human Rights and Equal Opportunity Commission. The reason I have risen to my feet this morning and am speaking on this bill in the consideration in detail stage is that I believe that the facts ought to be recorded in *Hansard*. We cannot have the Attorney-General coming into this House, speaking in reply to the second reading debate on this bill and naming every member of the opposition side who submitted their name and did not speak. I would like to remind you, Mr Deputy Speaker, that what the Attorney-General omitted to say is that his gutless government only had two names down to speak on the original bill. The preceding bill had 16 of us keeping this House going while we got the relevant messages from the Senate.

In his right of reply, the Attorney-General did not want to honour a commitment regarding the fact that we were waiting for the bills to come back from the Senate. So I would like to take the chamber through this bill to look at the anomalies that we are now encountering, and we will begin by looking at some of the anomalies to do with schedule 1. The next time the Attorney-General comes before the House, he should put on the *Hansard* record that at 1.30 in the morning he omitted to mention, in his summing up on the original part of the bill, that Labor had supplied time and time again the speakers on this side of the House to keep the House open.

When you closely examine schedule 1 of the bill, Mr Deputy Speaker, I believe you will see why we on the opposition side moved our second reading amendment. We did so because, while we did not disagree with giving the bill a second reading, we condemn the government for attempting to weaken the independence of the Human Rights and Equal Opportunity Commission by requiring that it seek the permission of the Attorney-General before intervening in court proceedings.

We had to listen to the Attorney-General of this nation come before this parliament and acknowledge, in his summing up of the bill, only the member for Cook and the member for Curtin. He forgot the two Independent members who spoke, and he also did not acknowledge what Labor members had said previously, both to the whips of your side and to the people in general. We are not going to use members of the opposition to keep this House going because of the deficiency of the government. It is about time that the government of this nation realised that, if you are going to have debates, you have debates that are equal on both sides. We, as the elected Labor representatives, are in the minority in the House, yet time and time again, with virtually every bill before the House, we, the minority, have to make up the majority of the speakers. With an important bill such as this—which we wanted to speak ad infinitum on; and we will go through the clauses in the consideration in detail stage—it is not correct for the Attorney-General, who should have known better, to use part of his summing up to do nothing more than condemn the opposition.

Looking at schedule 1 of this bill and understanding and appreciating the long-term ramifications of it, I completely agree with our shadow Attorney-General when he said that the Attorney-General of this nation did not have the stamina to put a bill before the House that was acceptable to Australia as a whole. We talk about discrimination and we talk about equal opportunities, but just let us go and see the kids that are locked up behind barbed wire. Because they come from another nation, because they were born overseas, they do not deserve equal opportunities, according to the government. If you look at schedule 1 of the bill, you can understand and appreciate why we on this side of the House feel so strongly about human rights.

You would think that the government had put the term 'human rights' together themselves. I can tell you that they did not. Half the people sitting on the other side are so besotted from the parties they are coming from that they cannot even stand straight, let alone have the gumption to get up here and argue for this bill with intent and fervour and to support the Attorney-General in what he is trying to do. The Attorney-General made a great mistake tonight when he came in here and tried to take on the opposition members. I will have other opportunities, as we go through this bill in the consideration in detail stage, to explain why we on this side of the House feel so strongly about this legislation.

I believe that, when you look carefully at the bill and at some of the clauses in it, Mr Deputy Speaker, you will be concerned. In schedule 1, I draw your attention to paragraph 20, 'Before paragraph 11(1)(a)'. The bill clearly says in (aaa) 'to promote an understanding and acceptance'—an understanding and acceptance of what? *(Time expired)*

Mr ABBOTT (Warringah—Leader of the House) (1.51 a.m.)—The hour is late. We have had a long night; we have had a much longer night than any of us would have wanted. Under those circumstances, many of us do things and say things which we proba-

bly should not do and say. I can certainly understand why at this time of the night members opposite, to assist the facilitation of the business of the House, might have been doing other things than speaking out on bills. The truth is that it is late at night. We all go a little bit over the top at times like this. We certainly heard an extremely vigorous and enthusiastic speech from the member for Prospect. It is very much in keeping with her feisty, combative and appealing style. Before that, we heard an uncharacteristically feisty speech from the Attorney-General. I think it would probably assist the House and all of its members if at this time we now calmed it, cooled it and proceeded to transact the business of the House in the kind of spirit that was evident prior to the last two speeches.

Mr LATHAM (Werriwa) (1.52 a.m.)—I rise to speak on schedule 1 and in response to the words of the Leader of the House. We on this side of the House had expected some form of apology. The Attorney-General surely did make a 'feisty' speech; the Attorney-General surely was tired and emotional in his remarks to the House. It was clear to everyone in the House that there was no need for a long speakers list. The shadow Attorney-General, the member for Barton, addressed the bill and fulfilled the obligations of the opposition to put our position forward, and other speakers made their views known. We had expected the normal passive summing up that the Attorney-General is well known for. Instead, he decided to politicise things and introduce a very spiteful tone into the House at this late hour, trying to vilify members of the opposition who had not participated in the debate—but his own contribution was to read out someone else's speech. It was extraordinary. Someone who was complaining that opposition members had not participated read out words written for him by a staffer. He could not make his own contribution to the debate, but he wanted to have a go at those in the opposition. He was tired and emotional and inadequate, trying to blow up the House for the purpose of letting it all hang out at 1.30 a.m. I would have thought that, at this hour, an apology would be appropriate.

The opposition was facilitating the work of the House. There had been discussions about the way in which the House could proceed this evening without quorums, without the need for provocative divisions, and the Attorney-General went outside the arrangement that had been struck between the government and the opposition. In the circumstances, the Attorney-General has been unnecessarily provocative. The Chief Opposition Whip has responded in kind, and I think it is only fair to say that, until the Attorney-General is man enough to stand up and apologise for his unfair and spiteful attack on members of the opposition, I would expect my friend and colleague the Chief Opposition Whip to continue with her close attention to the detail of the bill. She is a learned member; she is interested in all the schedules and all the clauses. We can go through them one by one. She has the facts; she has done her research. As the Leader of the House pointed out, she is a good advocate; she is a powerful speaker. She has the right, as a member of the House of Representatives, to go through them one by one. I would have thought it would be a very prudent thing at this late hour for the Attorney-General to apologise.

Ms GRIERSON (Newcastle) (1.55 a.m.)—I wish to oppose the Australian Human Rights Commission Legislation Bill 2003. Contrary to what we have heard in this debate, it does not contain any measures that would enhance the operations of the Human Rights and Equal Opportunity Commission—

The DEPUTY SPEAKER (Hon. I.R. Causley)— We are in the consideration in detail stage. Are you dealing with schedule 1?

Ms GRIERSON—Yes, Mr Deputy Speaker. Firstly, the legislation would rename the Human Rights and Equal Opportunity Commission. It would become the Australian Human Rights Commission. That does not seem much, perhaps, until we consider the government's ideology—that is, to do away with equal opportunity, replace it with freedom to choose and add the words 'as long as you can afford it' or 'as long as the government approves of it'. It would also abolish the five specific commissioners responsible for Aboriginal and Torres Strait Islanders social justice, human rights, disability, race and sex discrimination matters and would replace these specialised commissioners with three generic human rights commissioners. Remember that this also fits with the government's non-interventionist ideology—

The DEPUTY SPEAKER—The member is delivering a speech on the second reading. We are dealing with the schedules of the bill.

Ms GRIERSON—Mr Deputy Speaker, I am speaking to those.

The DEPUTY SPEAKER—Which line item?

Ms GRIERSON—Section 25.

Mr Martin Ferguson interjecting—

Ms GRIERSON—Thank you.

The DEPUTY SPEAKER—I think the member for Batman does know what the schedules are about.

Ms GRIERSON—The commission must seek to raise public awareness. It seems that we are no longer dealing with the real role of the Human Rights and Equal Opportunity Commission—which is advocacy. Now we have 'Human rights—everyone's responsibility'. I remind you that this government thinks that, if you do have a right, you have to pay for it, and that is what we have seen over and over again. It conforms to the government's agenda—no rights without responsibility; nothing from this government without mutual obligation; the paternalism of a government that is always right. I think our rights have been absolutely abrogated by this legislation.

I draw attention to the rights of people to be represented on the Human Rights and Equal Opportunity Commission in very special ways. I mention in particular our commissioner from Newcastle, Bill Jonas. He is a Worimi man from the Karuah River area of New South Wales—my neighbouring area. He has had many longstanding and significant connections with the Newcastle area. Prior to his appointment as Australia's second Aboriginal and Torres Strait Islander Social Justice Commissioner, Dr Jonas held a number of senior academic and community positions, including the Director of Aboriginal Education at the University of Newcastle. Dr Jonas is also a longstanding member of Newcastle's Awabakal Aboriginal Cooperative and has been both director and chair of its board. Dr Jonas would agree that human rights are everyone's right, not necessarily—as this government would suggest—everyone's responsibility. The people of Newcastle have always supported these cases and made several submissions to the Senate inquiry into this legislation.

The role of the commissioner in monitoring the extent to which Indigenous disadvantage was addressed has often put Dr Jonas at odds with the Howard government. But as the Newcastle Aboriginal Support Group has argued that the fact that the commission has been critical of the lack of progress being made is not a case for silencing the reporter.

Indeed, the failure of the government to address Indigenous rights and Indigenous disadvantage lends even greater importance to the work of a specialised Aboriginal and Torres Strait Islander social justice commissioner. When this government say, 'Human rights is everyone's responsibility,' I say no, it is everyone's right, and it is certainly the government's responsibility to protect those. I certainly oppose the first schedule of this subsection.

Mrs CROSIO (Prospect) (2.00 a.m.)—I refer you to page 6 of schedule 1, 25 after subsection 11(1) where it is sought to have inserted under paragraphs (1)(aaa) and (aab):

the Commission must seek to raise public awareness of the importance of human rights by using, and encouraging the use of, the expression ***human rights—everyone's responsibility***.

Mr Speaker, I am glad that you are in the chair because when one defines what 'Human rights—everyone's responsibility' means, I would take that as also being a government's responsibility to the rights of human beings. We have seen in this area with the 'children overboard' issue, with the boat people and with the Pacific solution that human rights, which are everyone's responsibility, obviously do not apply to people who are not born in this country.

This bill, particularly schedule 1, clearly indicates that we should at least take on board some of the criticisms and recriminations that we have received as a parliament because of our past actions. In answering the Attorney-General, who came in here and belittled the opposition about not speaking in the debate on the bill, I say for the benefit of the *Hansard* that I pulled the speakers on the side of this House because what we have provided time and time again in this parliament is a filler for this government. It is our people on the opposition benches who time and time again speak through the night to keep the parliament going. For those who are here intently listening to what I have to say—we are again providing that to you.

When this bill came up, we were not told what was happening as far as the Senate was concerned. We knew that the wheat bill had just been finished and we also knew that superannuation was about to be discussed. That is why it is so important for us as a parliament to examine in detail every line of these schedules of the bill that we are now debating before the House. Human rights are an issue that all of us should be concerned with but, more particularly, we have to be observant and we have to watch what some of the wording could contain in the future. Too often in parliament bills have been presented to us by both sides, including when we have been government, and the long-term ramifications of the true meanings of those bills have sometimes been missed.

Tonight I would have expected the Attorney-General of this nation to come into this parliament and give in his right of reply—not the type of speech that he gave in his introduction to the bill—the detail as to what the ramifications of this bill will mean for human rights in the future. We did not have that. He did not want to come in and explain other parts of the bill that he thought may not have been covered in his original presentation. I believe that is why we, on this side of the House, moved the original amendment. We are very concerned with this piece of legislation. We sincerely believe, when we look at schedule 1, that this government, this Attorney-General and this bill are attempting to reduce the effectiveness of the commission by abolishing specialist commissioners.

We can go on about that—I was waiting for the Attorney-General at least to jump. I know the Leader of the House asked him for

an apology but he is not man enough for that. He is not man enough to face each of those people who prepared their speeches and who were prepared to come in here and speak tonight and keep this House going when there were only two members on the government side prepared to do the same. He is not man enough to come into this House and tell me—whether it is under schedule 1 or the rest of the schedules which we are now going to contemplate in the discussion of this bill in the consideration in detail stage—what he meant, as Attorney-General, in his criticism of what should or should not have happened.

I believe that the Attorney-General of this nation should at least be able to stand up proudly and say what a bill is about. He has not been able to do that. Instead the Attorney-General, who has a staff far superior to mine, came in here and attempted in a mealy-mouthed way to belittle the opposition. I hang my head in shame. How can I say to my constituency, 'I am proud of the Attorney-General of this nation'? We should be able to do that. It is a high office. It is an office that this man should be proud to serve in. If he looked at the way the bill has been constructed, and if he read it more finely, even he would have to admit that there are a number of anomalies that need to be corrected. I do not believe that we should have to come back in six months time and say, 'I told you so.' If we are going to have debate in the House, it has to be full debate. If the government are concerned at five past two on a Friday morning about stopping business proceeding—*(Time expired)*

Mr ABBOTT (Warringah—Leader of the House) (2.05 a.m.)—There was an informal arrangement between the government and the opposition under which the opposition agreed to withdraw speakers from the debate on this bill. I am very sorry that the Attorney-General was not aware of that arrangement. It was rather unfair of the government to be critical of the opposition for doing what had been informally agreed. On behalf of the government, I am sorry about this.

Mr Ripoll interjecting—

The SPEAKER—The member for Oxley cannot have it both ways.

Mr ABBOTT—I hope that the member for Prospect will accept this apology on behalf of the government. I hope that this bill can now be dealt with in the expeditious way the original understanding anticipated.

Mrs CROSIO (Prospect) (2.06 a.m.)—I am very pleased that sanity has finally prevailed in this parliament—that finally the Leader of the House has been man enough to apologise to those people who I pulled from tonight's debate in this House. I went to every one of them and said, 'You are not speaking. We have to get on with the business of the House.' I acknowledge the apology but I believe it should have come from the Attorney-General. This apology would not have been needed if commonsense had prevailed. Next time the Attorney-General comes in here he should put his brain into gear before his mouth opens. If he had done that he might have realised the energy which should have been required of him in restructuring the bill as it now stands. I do accept the profound apology from the Leader of the House. It is probably the first time we on this side of the House have had an apology from the government for all of the anomalies that have happened in the past, but I accept this apology tonight. It is in the *Hansard* record that finally the government have apologised.

The SPEAKER—I would be grateful if the member for Prospect would bring herself to schedule 1.

Mrs CROSIO—In schedule 1 there are a number of anomalies which I believe should be brought to the attention of the House. I know that the Manager of Opposition Business does not want me to go into great detail on point 26 of schedule 1, which looks at how the commission may intervene in proceedings under section 11. I will not do that. There are other parts of schedule 1 of this bill that I could go through page by page—I have only just warmed up—but I will not do that, because I take in good faith the apology that has been given and I acknowledge that it was ignorance on the part of the Attorney-General when he used the right of reply in a debate to be critical of members on this side of the House. I can forgive this ignorance, because at least the Leader of the House has acknowledged that the Attorney-General was wrong. If we are going to have debates in this House that enable us to say to the community that we are sometimes united in the bills we pass, there has to be sanity. If we—particularly the Attorney-General—are frivolous in what we say and do, we will never have that.

The SPEAKER—The member for Prospect will understand my desire for her to come to schedule 1.

Mrs CROSIO—Mr Speaker, as you know, I could go through every line of the bill in this consideration in detail—and boy do I have the voice to do it. Looking more closely at schedule 1 of this bill, I am very concerned about some of the clauses. But I understand from the action now being taken by the Leader of the House that the two bills we have been waiting for from the Senate must be ready to be passed.

The SPEAKER—I could not guarantee that to the member for Prospect, but she does have the call.

Mrs CROSIO—Thank you, Mr Speaker; I appreciate the fact that you have given me the call. There are many lines in schedule 1 that I could take in great detail. But I sincerely mean this: I will take on board the good faith in which the apology was provided by the Leader of the House to speakers and members on this side of the House. The Labor Party acknowledge that this bill is a very important piece of legislation. There are a number of schedules in the bill which we could take issue with and debate. I will not do that. I will acknowledge the fact that the Attorney-General of this nation made a mistake; I accept that as a mistake. I acknowledge the fact that the Leader of the House has apologised, and I accept that apology on behalf of the Labor Party.

More importantly, I say to the government that we are not here to always try to stop business going through the House. I work very closely with the Government Whip in the House to try to keep legislation moving smoothly. You would know that, Mr Speaker, being a past whip. At times you encounter difficulties in doing that. But I resent that, time and time again—every time we have a late session in this parliament—it is the opposition members lining up. We provide 30, 40 or 50 speakers and we see government members on their feet about five times, no matter how many bills go through in that night. That has got to stop.

If we are going to have these late night sessions, we are going to have to look more closely at how the work is divided and we are going to have to look more closely at the government members getting off their backsides and making a contribution. If they do not choose to do that, I will take them through every clause of every schedule of every page not only of this bill but also of every other bill that comes before the House. Again, I thank the Leader of the House. I feel sorry for the Attorney-General that he was

not man enough to stand up and apologise. But, more importantly, I will ask the government to look very carefully at this bill. We certainly will have it examined when it gets to the Senate. *(Time expired)*

Schedule agreed to.

Mr Martin Ferguson—Mr Speaker, I rise on a point of order. I know that it is a late hour, but there ought to be a little respect. The minister is lying down and reading the paper—

The SPEAKER—The member for Batman has no point of order.

Clauses 1 to 3 of schedule 2—by leave—taken together, and agreed to.

Title agreed to.

Bill, as amended, agreed to.

Third Reading

Mr WILLIAMS (Tangney—Attorney-General) (2.12 a.m.)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

WHEAT MARKETING AMENDMENT BILL 2002

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

Senate's amendments—

(1) Page 2 (after line 2), after clause 3, add:

4 Application

The Authority must prepare and publish the first reports under section 5C of the *Wheat Marketing Act 1989* as amended by this Act for the financial year ending on 30 June 2003. However, the Authority is not required to publish a report under section 5C earlier than 4 months after the commencement of this Act.

(2) Schedule 1, item 1, page 3 (after line 12), at the end of the definition of ***wheat export charge amounts***, add:

Note: The charge mentioned in paragraph (a) is to be imposed by regulations that specify the period for which the charge is to apply.

(3) Schedule 1, page 3 (after line 12), after item 1, insert:

1A Section 3

Insert:

related body corporate has the same meaning as in the Corporations Act 2001.

(4) Schedule 1, item 2, page 3 (after line 32), after section 5B, insert:

5C Reports about nominated company B's performance

Report for Minister

(1) The Authority must prepare and give to the Minister each financial year a report in relation to:

(a) nominated company B's performance in relation to the export of wheat for the year; and

(b) the benefits to growers that resulted from that performance.

(2) The Authority must give the report for a financial year to the Minister on or before 31 December in the next financial year.

Report for growers

(3) The Authority must prepare and publish a report for growers each financial year in relation to:

(a) nominated company B's performance in relation to the export of wheat for the year; and

(b) the benefits to growers that resulted from that performance.

(4) The Authority must publish the report for a financial year on or before 31 December in the next financial year.

Note: Information that is protected from disclosure by subsection 5E(2) must not be included in a report for growers.

5D Power to obtain information

(1) The Authority may direct nominated company B, or a related body corporate of nominated company B, to give to the Authority:

(a) information; or

(b) documents, or copies of documents, in the custody or under the control of nominated company B or the related body corporate;

that the Authority considers relevant to the operation of pools mentioned in section 84 (including the costs of operating the pools and the returns to growers that result from the pools).

(2) A direction must:

(a) be in writing; and

(b) specify the information that is, or documents that are, to be given; and

(c) specify the date by which the information is, or documents are, to be given.

(3) A direction may specify the manner and form in which the information is, or documents are, to be given.

(4) The directed company must comply with a direction.

(5) If the directed company does not comply with a direction by the specified date, the Authority may apply to the Federal Court for an order under subsection (6).

(6) If the Federal Court is satisfied that:

(a) the directed company has not complied with the direction; and

(b) if information is specified in the direction—the information is relevant to the operation of pools mentioned in section 84 (which may include the costs of operating the pools and the returns to growers that result from the pools); and

(c) if documents are specified in the direction—the documents are in the custody or under the control of the directed company and are relevant to the operation of pools mentioned in section 84 (which may include the costs of operating the pools and the returns to growers that result from the pools);

the Federal Court may make the following orders:

(d) an order granting an injunction requiring the directed company to comply with the direction;

(e) any other order that the Court considers appropriate.

(7) The Federal Court may exercise powers under subsection (6) whether or not:

(a) it appears to the Court that the directed company intends to continue to fail to comply with the direction; or

(b) the directed company has previously failed to comply with a direction.

(8) The Federal Court may discharge or vary an injunction granted under this section.

5E Dealing with confidential information

(1) This section applies to a person who is or has been:

(a) a member of the Authority; or

(b) a member of the staff of the Authority; or

(c) a person who performs services in connection with the functions of the Authority; or

(d) the Minister; or

(e) a person employed as a member of staff of the Minister under section 13

or 20 of the *Members of Parliament (Staff) Act 1984*; or

(f) a person appointed by the Minister to conduct the review under subsection 57(7); or

(g) a person who assists a person mentioned in paragraph (f) in the conduct of the review.

(2) The person must not disclose information if:

(a) either:

(i) it is information given to the Authority under section 5D and the company that gave the information claims it is commercial-in-confidence information; or

(ii) it is information contained in a document given to the Authority under section 5D and the company that gave the document claims that the information is commercial-in-confidence information; and

(b) the disclosure of the information could reasonably be expected:

(i) to cause financial loss or detriment to the directed company or a related body corporate of the directed company; or

(ii) to directly benefit a competitor of the directed company or of a related body corporate of the directed company; or

(iii) to reduce the return for a pool mentioned in section 84.

Penalty: Imprisonment for 1 year.

(3) Subsection (2) does not prevent the person from disclosing information:

(a) with the consent of the company that gave the information; or

(b) in accordance with an order of a court; or

(c) to any of the following persons, for a purpose in connection with the performance of the functions of the Authority:

(i) a member of the Authority;

(ii) a member of the staff of the Authority;

(iii) a person who performs services in connection with the functions of the Authority; or

(d) to the Minister; or

(e) to a person employed as a member of staff of the Minister under section 13 or 20 of the *Members of Parliament (Staff) Act 1984*; or

(f) to any of the following persons, for a purpose in connection with the conduct of the review under subsection 57(7):

(i) a person appointed by the Minister to conduct the review;

(ii) a person who assists a person mentioned in subparagraph (i) in the conduct of the review.

Note: The defendant bears an evidential burden in relation to a matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

(5) Schedule 1, page 4 (after line 23), after item 4, insert:

4A Subsection 57(7)

Repeal the subsection, substitute:

(7) Before the end of 2004, the Minister must cause an independent review to be conducted of the following matters:

(a) the operation of subsection (1A) in relation to nominated company B;

(b) the conduct of nominated company B in relation to:

(i) consultations for the purposes of subsection (3A); and

(ii) the granting or withholding of approvals for the purposes of subsection (3B);

(c) whether benefits to growers have resulted from the performance of nominated company B in relation to the export of wheat;

(d) the Authority's performance of its functions under this Act.

(8) The persons who are to conduct the review are to be appointed by the Minister.

(9) The persons who conduct the review must:

(a) be assisted by the Authority; and

(b) make use of reports under section 5C and other information collected by the Authority.

(10) The persons who conduct the review must give the Minister a report of the review before the end of 2004.

(11) The persons who conduct the review must publish a report of the review for growers before the end of 2004.

Note: Information that is protected from disclosure by subsection 5E(2) must not be included in a report for growers.

(6) At the end of section 57, add:

(12) The Minister must cause a copy of the report referred to in subsection (11) to be tabled in each House of the Parliament within 25 sitting days of that House after the day on which the Minister receives the report.

Mr TRUSS (Wide Bay—Minister for Agriculture, Fisheries and Forestry) (2.14 a.m.)—I move:

That the amendments be agreed to.

The main purpose of the Wheat Marketing Amendment Bill 2002 is to provide a means to appropriate to the Wheat Export Authority moneys collected as a wheat export charge. The introduction by regulations of an export charge on wheat and fees for applications for consents to the WEA will provide a secure funding mechanism to enable the WEA to continue its functions as an integral part of the wheat single desk arrangements. The bill generated much debate during the inquiry by the Senate Rural and Regional Affairs and Transport Legislation Committee.

This debate has been about issues considerably broader than the funding mechanism for the WEA, including the operation of the single desk, the relationship between AWB Ltd and AWB International Ltd, and the WEA's ability to effectively monitor AWBI's export performance and to report to growers. The majority Senate committee report recommended that funding for the WEA be provided for only one year, that the monitoring and review powers of the WEA be strengthened, that alternative arrangements for conducting the 2004 review be considered and that wheat exports in bags and containers be further deregulated.

The government has clearly indicated that it has no intention of adopting changes to the bill which would weaken the wheat single desk or the benefits it provides. The bill is not intended to fundamentally change the arrangements agreed between industry and government, and implemented from 1999, despite this being what some parties may have sought. It is aimed at providing adequate funding to the ongoing operations of the WEA. Nonetheless, the government has agreed to address issues which will strengthen the arrangements and ensure greater transparency so that growers can better evaluate the benefits they receive from the single desk.

I note that the Senate committee reports that there has not been an incident in which AWBI has denied the WEA access to necessary information. Nonetheless, the govern-

ment has agreed to accept amendments to strengthen the powers of the WEA so it can compel AWBI, and through it AWB Ltd and other companies in the group, to provide it with the information it reasonably needs to perform its functions. It is important that these powers apply to all companies, because of the service relationship which exists between the single desk subsidiary, AWBI, and its parent, AWB Ltd.

Provision will also be made to protect commercially sensitive information so that neither the AWB group nor the pools will be disadvantaged in the marketplace. These changes will go a long way to increasing industry confidence over the WEA's capacity to effectively do its job. In particular, it will increase confidence in the 2004 review. I am also aware of general industry support for the WEA to have the powers expressed in the legislation.

Further, the government has recognised the importance to industry of legislative provisions to enforce the current practice whereby the WEA reports to growers as well as to the government on the monitoring of AWBI's export performance. Of course the WEA will not publish information which may commercially disadvantage AWBI or which could impact negatively on pool returns. The government has already made it quite clear that the 2004 review is about the performance of AWBI as the commercial manager of the wheat single desk. The review is not about the existence of the single desk, nor is it intended to incorporate national competition principles.

The government accepts that the review by an independent committee, appointed by me as minister on a skills basis with appropriate consultation, would improve the transparency of the review and provide greater confidence to growers and other stakeholders. The review will cover the following broad areas: firstly, wheat export arrangements, which include niche marketing, AWBI export rights and its role in export consents; secondly, pooling operations, which include market analysis, pool management and any other matters relating to the pools; thirdly, pricing performance, which includes gross sales revenue and commodity hedging; fourthly, supply chain, which includes transport and storage costs; fifthly, the operating environment, which is concerned with corporate governance, the service level agreement and delivery issues; and, finally, the performance of the authority in undertaking its functions.

The WEA has a considerable body of material and information on the operation of the export monopoly and therefore the WEA will be required to cooperate with the review committee to ensure it has access to all the relevant information it needs to complete its task. It would be impossible to contemplate reviewing AWBI's operation without drawing on this wealth of material. The relationship between AWB Ltd and AWBI is already examined in the annual monitoring process by the WEA, with a performance report to AWBI later this year, and it will be an essential part of the 2004 review. Similarly, supply chain issues are part of the current monitoring process and the review will also report on the benefits to growers from management of the single desk.

Including a sunset provision in the export charge regulations is not something the government embraces, given the uncertainty it generates. However, it will be necessary to include a sunset provision to facilitate the passage of the regulations through the Senate. We have agreed that the sunset date will be 30 June 2006. The charge rate will be reassessed on a regular basis in consultation with industry and, where necessary, it will be

changed through regulations, which of course are disallowable instruments.

In addition to its main purpose, the bill contains a provision to clarify the objectives of the WEA's export control functions. This reflects the government's expressed view in its response to the NCP review that the WEA should complement the role of the single desk arrangements in maximising net pool returns through AWBI while at the same time facilitating the development of niche and other markets, where this can benefit both growers and the wider community. *(Extension of time granted)* Incorporating the objective in the Wheat Marketing Act at this time will remove any ambiguity which may exist with regard to the government's policy on and commitment to the single desk. A recent judgment from the High Court clarified the actions of AWBI in the export consent process and in its management of the single desk to maximise net returns to growers delivering the pool.

The bill also amends the Wheat Marketing Act to improve the operational efficiency of the WEA, which would benefit exporters seeking consent and allow the WEA to better manage its compliance procedures. It is essential that the WEA has adequate financial resources to continue its role, and the passage of this bill, including the amendments, is a vital element to achieving this process. I commend the amendments to the House.

The SPEAKER—The question is that the amendments be agreed to.

Question agreed to.

PRIVILEGE

The SPEAKER (2.21 a.m.)—At the conclusion of question time this afternoon the honourable member for New England raised with me what he believed may be a matter of privilege, concerning an incident in a Senate committee room and in the corridors of the Senate. I offered to discuss the incident with the honourable member, other involved parties and independent witnesses and report back to the House. I have spoken to the honourable member, to the ministerial staff member involved and to independent witnesses. I have also been furnished with a statutory declaration by one of those witnesses. Based on this, I do not believe that there are sufficient grounds for a referral of this matter to the Privileges Committee. It was in my view inappropriate for the honourable member to use the Senate committee room booked in the name of a minister, as he did. I do not propose to take any further action on this matter. I will allow the member for New England to make a comment, although it would be a little outside the standing orders. Given that he is the member who raised the matter, I will hear him.

Mr WINDSOR (New England) (2.22 a.m.)—Thank you, Mr Speaker, and thank you for reporting back at this late hour. I do appreciate the discussion that we had. I do appreciate the difficulties in determining fault within the discussion carried out, and there was some degree of harassment carried out within the corridors, but I would make the point that I think we must be very wary of inappropriate behaviour by staff members in relation to members of parliament. As I said, I am fully aware of the predicament that you are placed in in making a determination on this particular issue, but I think it is something that the parliament should bear in mind for future occasions.

The SPEAKER—As I said, I consider the matter has been dealt with.

Mr LATHAM (Werriwa—Manager of Opposition Business) (2.23 a.m.)—Mr Speaker, I too appreciate your prompt report back to the House. A number of opposition

members raised this matter with me this afternoon. They had a concern that part of this allegation was that the member for New England had been physically manhandled, that there had been physical contact involved.

Mr Tuckey interjecting—

The SPEAKER—Order! Minister, the member for Werriwa has the call and will be recognised.

Mr LATHAM—Privilege is a serious matter, and I think we would all agree that no member of this House should be physically grabbed or interfered with in the conduct of their duties. I am just seeking on behalf of the opposition—and I certainly take and trust your word, Mr Speaker, and I am sure the opposition members who raised it with me would appreciate this reassurance—a reassurance that that was not the nature of this particular incident. On that basis, it would not need to be referred to the Privileges Committee.

The SPEAKER—I was not present to witness the incident. As I said, I have a statutory declaration. I am content that the action that I have taken is entirely appropriate. I cannot comment on precisely what happened, since I have heard conflicting views. But I am content from the statutory declaration that the action that I am taking is appropriate.

Mr WINDSOR (New England) (2.24 a.m.)—To help clarify the issue for the Manager of Opposition Business, I think the great difficulty here is that there are conflicting views and that making a determination from the minister's perspective, even if it was referred to the Privileges Committee, would boil down to some people's words against other people's words. I know what happened. I do not want to enter into the debate, but it is important that we bear in mind that harassment of members of parliament by staff members should be something that we should—

The SPEAKER—I think this matter has been adequately aired. I think it is fair for me to simply comment that the term 'manhandled' would not be a term that could be used in this instance.

DEFENCE LEGISLATION AMENDMENT BILL 2003

Second Reading

Debate resumed from 26 March, on motion by **Mrs Vale**:

That this bill be now read a second time.

Mr BILLSON (Dunkley) (2.26 a.m.)—The Defence Legislation Amendment Bill 2003 brings together a number of defence related bills and amendments to a number of pieces of defence related legislation and recognises the government's ongoing commitment to the defence organisation and service personnel, both during their time with the ADF and afterwards.

There are essentially two key elements to this bill. The first is the increasing of the penalties for the improper use of service medals and decorations to falsely represent a returned service person. The second significant measure relates to the implementation of the recommendations made by Brigadier Abadee, the Deputy Judge Advocate General, in his 1997 report in relation to the military discipline system and the implementation of findings from an internal review of the military discipline system. The second measure is not something I am well versed in, so I will focus the bulk of my comments on the issue relating to the improper use of service medals.

In the bill, there is a welcome and, for me, very long-awaited increase in the penalties that can be applied to persons who, frankly, seek to misrepresent themselves. By wearing

medals that they are not entitled to, they seek to associate themselves with the performance, great courage, chivalry and great service that our veterans have provided to this nation. They are purporting to be something they are not and are seeking to associate themselves with the deep reverence and respect the Australian community has for the veterans. The 1917 law that prevented service personnel from pledging or disposing of their medals in any way to another person provides the genesis of this measure. In fact, section 80A in the Defence Act 1903 creates an offence to falsely represent oneself as a returned soldier, sailor or airman. Section 80B provides for an offence for the improper use of service decorations.

In my travels—and all of us in the House do a lot of work with the veterans community—I have not met anybody who would have thought that a couple of hundred dollars was an appropriate fine. It was brought to my attention as far back as 1998, when a highly respected, senior, retired member of the Defence Force took me aside at the Frankston RSL. He sidled up to me and proceeded to work through the community that was present, pointing out some—let us say—inexplicable medals and decorations that were being worn. His long service in the military had enabled him to recognise medals and understand that certain combinations of them do not go together. It is difficult to earn certain categories of medals in certain times and certain regions during the same conflict and get another one for somewhere else. He proceeded to show me where that was happening amongst the local veterans community. He was appalled by that and encouraged me to look into this matter.

As far back as 23 February 1998 I wrote to the then state president of the RSL, Bruce Ruxton. He and I had met late the year before and discussed this matter. I undertook to him and to members of the local veterans community to investigate what was going on. When veterans come together to remember the fallen or to celebrate the Anzac tradition they, and those who commemorate with them, are showing their deep respect and reverence for their service. That depth of feeling can quickly turn into deep resentment and frustration if people are wearing medals they are not entitled to and seeking to misrepresent themselves to the broader community. All of us in this place encourage loved ones and family members to commemorate the service of a family member who has been with the ADF, but there is an appropriate way of doing that. Part of what came out of my work was an encouragement to the then defence minister and to the Prime Minister to implement a plan that sought to not only educate the public about the proper and appropriate way of commemorating the service of a loved one but also recognise the appalling deficiency in the value of the penalty for those people who sought to misrepresent themselves and pass themselves off as a returned service person.

Things do not move quickly sometimes, but move they did—thankfully, through the support of the Victorian branch of the RSL. The state executive of that branch met on 18 November and, much to my delight, shortly thereafter wrote back to me saying they were entirely in agreement with what I was seeking to pursue: a public education campaign to communicate how commemorative medals should be worn and to increase the fines for those seeking to purport themselves to be something they are not. With that support I returned to the government with a proposition. My proposal, which was canvassed in the metropolitan daily newspapers in Melbourne around Anzac Day 2000, was widely

well received. I suggested that a fine of at least $1,000 was appropriate, because it is a significant insult to serving personnel when others who have not done the work seek to associate themselves with their deeds—they have not provided the service and they have not earned that recognition and respect from the nation. So things have moved, thankfully.

One other area we looked at was non-officially recognised awards. This is a bit of a vexed issue. Many battalion and campaign organisations mint their own medals—their own methods of recognising their shared experiences. That is not inappropriate. What is inappropriate, though, is to have them passed off as if they were official medals. The government guidelines concerning the acceptance and wearing of foreign honours and awards by Australians is part of that picture. It does allow for an official acceptance and wearing of foreign awards conferred on Australians, but there is some expectation that the person who has received them will seek to wear them in an appropriate way.

I also found out at that time that commercial companies manufacturing commemorative medals of their own design without government approval is not something that we discourage. The government cannot and does not object to that practice. But it should be noted that those medals are not endorsed by the government, do not have any official standing and do not appear in the government's order of wearing of Australian honours and awards publications and consequently cannot be worn on an official government uniform. Those medals are normally marketed and sold by private companies. There is an appropriate way of wearing them, and that is not bundling them in with official medals. The RSL has long had a view on this issue. At its 82nd national congress in September 1997—a number of months before my work started on this subject—the RSL of Australia passed a motion:

> Only awards and decorations awarded by the queen or the Governor-General, or approved foreign decorations, shall be worn on the left breast of ex-service personnel.

The symbolism of that is that the award is over the heart. For those who have earned the official commemorations, that is where they are appropriately worn. For loved ones, they are worn on the right breast. It is a simple distinction—a distinction that is well known amongst the service community but not so well known amongst the broader public. I have yet to meet anybody who, knowing that is the proper way to commemorate the service of a loved one, goes and does the wrong thing.

Most people have been grateful for the public debate that my advocacy has stimulated on this subject. Now, at least in all of the Department of Veterans' Affairs publications seeking to communicate with young people at a primary and secondary school level, there is a segment on the proper wearing of medals. They have gone further: where there are graphics or animated pictures in those publications, all pictures properly depict the way commemorative medals should be worn. This is a multifaceted campaign, with its genesis more than 5½ years ago. The public education program is now up and going and it is embedded in the Their Service Our Heritage publications. A few years ago the federal government introduced the Anzac school kit, and in that is a segment on how family members can honour the service of loved ones. We have gone further by making sure that some of the discussion that surrounds commemorative occasions does include, in an inoffensive but informing way, a comment about how to properly wear service medals that have not been earned by the per-

son commemorating the service of a loved one.

In this bill, though, there is a second element. For those who do go out of their way to present themselves as something that they are not, there are stronger penalties. It is my view that very few people from the general public set out to deceive others by the way they wear medals, but a number inadvertently offend veterans simply because they are unaware of how to properly pay tribute to those who have earned them. Having said that, though, there are some cases—and I will not go into too much detail—where people do seek to present themselves as a veteran. The depth of feeling about that within the veterans' community cannot be understated.

Just as an example, an article was published in the Melbourne *Age* on 26 April 2000—the day after my call and my campaign. A World War II veteran, Harry Wilson, supported the idea of an education campaign to inform people that only veterans of war should wear medals on the left side of their chests and that the children and relatives should wear them on their right. The article reads:

> "There are imposters around," he said. "I knew a fellow my age who would get his brother's medals, who had died, and masquerade around in them. They're pretending to be what they're not."
>
> A Vietnam veteran, Vince Gunnulson, said there was deep hostility towards bogus medal wearers.
>
> "I think they should be shot, to be quite honest," he said.
>
> "It's disrespectful to the people that have served."

I am not advocating that they be shot but I am advocating that they be dealt with more strongly than with a $300 fine. Bogus vets bring down all veterans and dishonour their service, and we in this parliament should make sure that that does not happen, because we owe them a great debt of gratitude. One way of ensuring that is passed on in part is to make sure that only those deserving of it earn the respect that comes with that service.

The current Minister for Veterans' Affairs, Danna Vale, was maybe a little surprised when the material came back from the DVA. It was like a bolt from the blue, and she would have thought, 'Where did this come from? What is the genesis of this ministerial brief?' By happenstance, the proposition came forward and it connected with my long ongoing interest in this. I congratulate the minister for not only recognising the depth of feeling about this issue within the veterans' community but doing something about it to make sure that the fine that is grossly inadequate is being corrected and that the signal sent by this measure is a genuine gesture of how important the government sees this subject as being. There is an option that is alive and well—an option that I do not advocate—and that is the vigilante option that some in the veterans' community pursue, where they out bogus vets. That is evidence of the strength of their feeling on this matter and, frankly, it demonstrates how out of step the pathetic fine is, which I hope will be increased by about 33-fold, if I am not mistaken, if this legislation is passed. I am hopeful that it will be passed because it deserves to be passed.

Our veterans deserve better than having insults inflicted upon them by people seeking to associate themselves with the service of others and who are given a slap on the hand amounting to a $200 fine. That is pathetically inadequate. I am delighted to speak in support of this bill. I am delighted to be able to put away this dog-eared file that has letters from right around the country and from a number of local veterans staying in touch

with me about this issue, because they know I have taken it up on their behalf. Hopefully, with the support of this House and our colleagues in the other place, we will see the Defence Legislation Amendment Bill 2003 through. The penalty for the offence that I speak of will increase to a $6,600 fine and/or 12 months imprisonment. That is appropriate. Behaviour that dishonours our veterans community needs to be discouraged, and I very much commend the bill to the House and hope to see it introduced, publicised and part of a wider public education campaign well in advance of the up-and-coming commemorative activities.

Mr LINDSAY (Herbert) (2.41 a.m.)—I would like to open my contribution by paying a tribute to the Minister for Veterans' Affairs, who has brought the Defence Legislation Amendment Bill 2003 to the House in this session. The Minister for Veterans' Affairs, the Minister Assisting the Minister for Defence, has quite rightly brought this bill to the House and it will be warmly appreciated not only by the senior officers and men and women of Australia's mighty Defence Force but also by our veterans, because of the components that exist as part of the bill.

Minister, I am aware that tomorrow you will be launching and releasing the federal government's draft Military Rehabilitation and Compensation Bill. That is going to be a landmark bill and it will pave the way for a new, modern, military-specific rehabilitation and compensation scheme which provides enhanced levels of support for Australian Defence Force members who suffer illness, injury or death as a result of their service to our nation. You have guided that through, Minister, and I know that when that is released tomorrow to the public there will be wide acclamation for the contents of that particular draft bill. I know that you will be seeking comments from members of the Defence Force and from veterans as to what they think of it, and then you will be able to bring that bill in its final form back to the parliament as you have brought this bill to the parliament this evening.

In talking to the bill tonight, I would like to specifically take up a number of matters in this bill. The first one is the amendments relating to cadet services. All of us know how important the cadet services are in our electorates. It has been the government's intention to modernise the nomenclature for the three cadet services—Army, Navy and Air Force—and this bill makes provision to do that. The modernised names—the Air Training Corps will become the Australian Air Force Cadets, the Naval Reserve Cadets have become the Australian Navy Cadets and the Army Cadets have become the Australian Army Cadets—are exactly the way to go.

The nomenclature 'Australian so-and-so cadets' I think is very important. Over the last three or four years the standing of the Defence Force in our community has risen extraordinarily. The cadets want to feel part of that—and so they should. They are a modern force, they are a source of some of our very best recruits into the Defence Force and they want to proudly serve in a cadet force that has the right name, as this bill now confirms. In Townsville we have a mighty band of Navy cadets, some of whom the minister met on Magnetic Island; we have a mighty band of Australian Air Force cadets—Townsville is the centre for those for the whole of North Queensland, effectively, and they come to RAAF Townsville to train; and we have the Australian Army cadets at Heatley High School, Ignatius Park College, William Ross High School and so on, schools which do a terrific job for the young men and women who are future recruits for the Defence Force.

The bill this morning also amends the consequential changes that are needed in the Air Force Act 1923, the Archives Act 1983, the Defence Act 1903, the Freedom of Information Act 1982, the Naval Defence Act 1910, the Privacy Act 1988 and the Safety, Rehabilitation and Compensation Act 1988.

The second matter that I would like to speak about relates to the impersonation and service medal offences in the bill. As the previous speaker, the member for Dunkley, indicated, there has been quite some disquiet in our community in relation to people improperly wearing medals or falsely representing themselves as a returned soldier, sailor or airman. Within my own RSL in the last couple of years there was a very difficult matter associated with a very high profile member of the RSL who was thought to be wearing medals that he was not entitled to, resulting in a court case and a conviction. That caused deep resentment and very deep feeling within the RSL. These measures in the bill indicate that the government and the community want tougher penalties for these sorts of offences. The 33-fold increase that is allowed for, as the member for Dunkley said, is absolutely on the right track, is something that I very strongly support and it is what my community tells me they want—tougher penalties in these sorts of instances. The member for Dunkley was also right when he said how demeaning and dishonourable it was to serving members of the Australian Defence Force to see people impersonating serving officers. I seek leave to continue my remarks at a later sitting.

Leave granted; debate adjourned.

SUPERANNUATION LEGISLATION (COMMONWEALTH EMPLOYMENT) REPEAL AND AMENDMENT BILL 2002

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered forthwith.

Senate's amendments—

(1) Clause 2, page 2 (table item 2), omit "1 July 2002", substitute "1 July 2003".

(2) Clause 2, page 2 (table item 15), omit the table item.

(3) Schedule 1, item 1, page 4 (lines 6 to 8), omit the item.

(4) Schedule 1, item 8, page 5 (lines 10 to 13), omit the item.

(5) Schedule 1, item 9, page 6 (line 9), omit "1 July 2002", substitute "1 July 2003".

(6) Schedule 1, item 10, page 6 (lines 32 and 33), omit the item.

(7) Schedule 1, item 12, page 7 (line 1) to page 8 (line 32), omit the item.

(8) Schedule 1, item 13, page 8 (lines 33 to 35), omit the item.

(9) Schedule 1, item 14, page 9 (lines 1 and 2), omit the item.

(10) Schedule 1, item 15, page 9 (lines 3 to 17), omit the item.

(11) Schedule 1, item 25, page 12 (lines 10 and 11), omit "30 June 2002", substitute "30 June 2003".

(12) Schedule 1, item 27, page 12 (lines 23 and 24), omit "30 June 2002", substitute "30 June 2003".

(13) Schedule 1, item 29, page 12 (line 31), omit "1 July 2002", substitute "1 July 2003".

(14) Schedule 1, item 29, page 13 (line 5), omit "1 July 2002", substitute "1 July 2003".

(15) Schedule 1, item 33, page 14 (line 7), omit "30 June 2002", substitute "30 June 2003".

(16) Schedule 1, item 40, page 16 (line 11), omit "1 July 2002", substitute "1 July 2003".

(17) Schedule 1, item 40, page 16 (line 20), omit "1 July 2002", substitute "1 July 2003".

(18) Schedule 1, item 48, page 17 (lines 23 and 24), omit "30 June 2002", substitute "30 June 2003".

(19) Schedule 1, item 48, page 17 (lines 27 and 28), omit "30 June 2002", substitute "30 June 2003".

(20) Schedule 1, item 50, page 20 (lines 12 and 13), omit "30 June 2002", substitute "30 June 2003".

(21) Schedule 2, Part 1, page 69 (line 4) to page 72 (line 7), omit the Part.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (2.50 a.m.)—I move:

That the amendments be agreed to.

The Senate tonight agreed to a number of amendments to the Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Bill 2002. The main purpose of the bill is to provide for additional superannuation benefit options for Commonwealth civilian employees affected by asset sales or outsourcing as announced by the government in 1997. The bill also amends the availability of reversionary benefits in the Commonwealth Superannuation Scheme where a scheme pensioner remarries after retirement. In addition, the bill makes a number of administrative and technical changes to the CSS, including simplification of some current CSS rules.

Earlier tonight the Senate agreed to a number of government-proposed amendments to the bill. These amendments updated the commencement date of various provisions of the bill relating to simplified administration of the CSS from 1 July last year to 1 July this year to ensure the provisions operate prospectively. The members also removed provisions contained in the bill that were intended to signify the process for recognising authorities or bodies as approved authorities. The existing approved authority process will continue to apply whereby certain statutory bodies can be declared by the Minister for Finance and Administration to be approved authorities. This enables employees of those bodies to make contributions to the CSS and the Public Sector Superannuation Scheme. I commend the amendments to the House.

The SPEAKER—The question is that the amendments be agreed to.

Question agreed to.

House adjourned at 2.52 a.m. until Monday, 11 August 2003 at 12.30 p.m., in accordance with the resolution agreed to this sitting.

NOTICES

The following notice was given:

Ms Livermore to move:

That this House:

(1) acknowledges the 75th anniversary this year of the Royal Flying Doctor Service (RFDS);

(2) congratulates the RFDS for providing essential emergency and primary health care to the people of remote, rural and regional Australia since its establishment in 1928;

(3) thanks the doctors, nurses, allied health professionals, pilots, mechanics, support staff, volunteers and fundraisers for their commitment to continuing the life-saving work of the RFDS; and

(4) notes with concern the difficulty in recruiting and retaining health professionals in remote, rural and regional Australia that threatens to impact on the services provided by the RFDS.

Thursday, 26 June 2003

The DEPUTY SPEAKER (Hon. I.R. Causley) took the chair at 9.40 a.m.

STATEMENTS BY MEMBERS

Queensland Government: Land Clearing

Mr BRUCE SCOTT (Maranoa) (9.40 a.m.)—I stand here this morning in absolute disgust after the appalling conduct of the Queensland Labor government, which recently announced new tree-clearing legislation in Queensland. On 16 May, Queenslanders saw Premier Beattie engage in his now famous top-down approach. He took out full-page ads following his announcement of a moratorium on all new land-clearing applications in the state of Queensland. The Premier thought nothing about using common courtesy and consulting with land-holders. The Labor Premier did not even consult AgForce or the Queensland Farmers Federation, the two groups that are the true representatives of the main stakeholders—the farmers of Queensland. His shock announcement was simply a scare tactic based on misleading information, which he is famous for. Worst of all, it was politically driven.

We saw a similar story last year with the Premier's efforts on the Lower Balonne River, when he attempted to compulsorily acquire Cubbie Station, near Dirranbandi. This plan was totally rejected once we reverted to and used the proper science. The highly regarded Professor Peter Cullen looked at the real facts on behalf of the Queensland government—and, importantly, on behalf of the community and the water users of the Lower Balonne—and reported to the state government. Since then we have heard nothing of his plan to compulsorily acquire Cubbie Station.

The Queensland Premier is driven by bureaucracy rather than by proper science. In contrast, the federal government has insisted on consultation first with the farm bodies. I thank the Prime Minister for his commitment on this. The coalition government is encouraging as much input as possible into these draft regional vegetation management plans that are currently out for discussion with communities. The Premier seems hell-bent on avoiding community consultation and going around the regional vegetation management plans that are out there for discussion with community groups and, importantly, stakeholders.

Let us put some facts on the record. I have with me today a few letters that I have received from concerned land-holders since last month's tree-clearing announcement. One is from Mr Ashley McKay, from my electorate, who said:

> The Queensland Government has tragically misled their Federal counterparts. Premier Beattie and his ministers have displayed an appalling ignorance and a lack of understanding on land management matters.

He also said:

> There is no trust whatsoever in the Queensland government.

We have land-holders with 50 years of experience in land management and development in Queensland. Let us cooperate with them. Let us use this experience to achieve sustainable agriculture rather than have sensational media driven by the approach of the Labor government. *(Time expired)*

Sport: State of Origin

Newcastle Electorate: Shipbuilding Industry

Ms GRIERSON (Newcastle) (9.43 a.m.)—Today I rise on behalf of the people of Newcastle. In our city today there will be joy and there will also be great sadness. We will be celebrating the victory of the Blues last night, with five of our Newcastle Knights players distinguishing themselves. I send my congratulations to Joey Johns, Danny Buderus, Timana Tahu, Matt Gidley and Ben Kennedy. But the jubilation will not last very long, because today we will also hear that ADI in Newcastle has been unsuccessful in its patrol boat tender. That will be devastating news for the shipbuilding industry not just in Newcastle but in New South Wales. It will also have devastating consequences for our manufacturing sector. But, when we do celebrate in Newcastle, it tends to be in the face of adversity and we do show the courage that Newcastle has always shown.

I would like to congratulate ADI on their bid. They made an assessment of the different hull structures that would have been competitive and the best for the Australian Navy. They put forward a composite bid, knowing full well that they could have bid on any other hull structure, but their decision was one they felt was in the interests of the Navy and certainly in the interests of the patrol boat fleet. The Department of Defence said that ADI's bid was not sufficiently competitive in value for money terms, which surprises me because the savings in the life management of the vessels is quite significant.

ADI recently refitted and serviced an ocean-going yacht, with $2 million injected into the Newcastle economy just from that one craft. We hope that this government—and I know the state government is doing so—will be looking favourably at supporting that innovative industry. It would be very much a loss for Australia to lose the composite technology that has been built up in Newcastle. For ADI there is great sadness, and for the shipbuilding and manufacturing sector in Newcastle it is a major concern. I hope this government will look favourably on any initiative to support that sector, particularly in Newcastle, although I do not have much hope.

Today I want to lodge two petitions which have been approved by the Clerk's office. They draw attention to the closure and the loss of three more GP practices in Newcastle in the last month. Newcastle is not an outer regional or rural area; it is certainly a major city. However, we are facing a crisis in Newcastle and unfortunately the news today compounds that and will not be assisting at all.

The petitions read as follows—

To the Honourable Speaker and Members of the House of Representatives assembled in Parliament:

The petition of certain citizens of Australia draws to the attention of the House:

- That the Carrington Medical Centre is soon to become the latest casualty in the Newcastle and Hunter Region's worsening doctor shortage crisis;
- This is the only General Practice (GP) service in Carrington;
- That almost 50 medical jobs are vacant across the Newcastle and Hunter regions, which cannot be filled;
- That Newcastle is currently 20 to 30 GP's short of what it should have;
- That Carrington residents will no longer have access to local bulk billing services;
- That the rate of bulk billing by GP's in Newcastle has already plummeted by 12% in the last two years under the Howard Government;

- That the average out-of-pocket cost to see a GP in Newcastle who does not bulk bill has increased to $12.70 today;
- That the John Hunter and Mater hospital emergency departments are now under greater pressure because people are finding it harder to see bulk billing doctors;
- That the Howard Government policies have clearly failed to address the doctor shortage or restore bulk billing services in Newcastle and the Hunter Region.

We therefore ask the House to take urgent steps to address the alarming shortage of doctors in Carrington and the Newcastle and Hunter Region and reject the Howard Government's plan to end universal bulk billing so that Carrington residents and all Australians have access to the health care they need and deserve.

from 457 citizens

To the Honourable Speaker and Members of the House of Representatives assembled in Parliament:

The petition of certain citizens of Australia draws to the attention of the House:

- That under proposed changes to Medicare, families earning more than $32,300 a year will miss out on bulk billing, and doctors will increase their fees for visits that are no longer bulk billed;
- That more than 28,500 households in Newcastle will be negatively affected by these changes;
- That the rate of bulk billing by GP's in Newcastle has plummeted by 12% in the last two years under John Howard;
- Nationally, more than 10 million fewer GP visits were bulk billed this year compared to when John Howard came to office;
- That the average out-of-pocket cost to see a GP in Newcastle who does not bulk bill has increased to $12.70 today;
- That the John Hunter and Mater hospital emergency departments are now under greater pressure because people are finding it harder to see bulk billing doctors;

We therefore ask the House to take urgent steps to restore bulk billing by general practitioners and reject John Howard's plan to end universal bulk billing so that all Australians have access to the health care they need and deserve.

from 198 citizens

Parramatta Electorate: M4 Motorway Tolls

Parramatta Electorate: Parramatta Rail Link

Mr ROSS CAMERON (Parramatta—Parliamentary Secretary to the Minister for Family and Community Services) (9.46 a.m.)—I do not make it a matter of routine or habit to wander into the chambers of the federal parliament and attack the performance of the New South Wales government, but from time to time I see an act of political cynicism which is so breathtaking in its audacity that it would be derelict of me not to at least record my stunned outrage at this behaviour.

My constituents will well recall that, before the 1995 election, the state Labor government solemnly promised to remove the tolls on the M4 motorway. There was much enthusiasm among commuters, and many were, no doubt, affected in their voting decision by this undertaking to Western Sydney, only to find that immediately after the election the New South Wales Treasurer had re-examined the books and decided that it could not be afforded.

In the same vein in 1998, in the lead-up to not the most recent but the state election before that, an announcement was made with some fanfare that planning had begun for a Parramatta to Chatswood rail link. My constituents were excited, especially when the senior figures in the department of planning laid out beautiful architecturally derived models of what the rail inter-

change would look like and started talking about the benefits. The New South Wales government web site said:

> The Parramatta rail link's major benefits are seen as the opening up of business and employment opportunities in North Ryde and the lower North Shore for residents of western Sydney and of the Central Coast.

A great deal of political mileage was milked out of this project before the 1999 election. There was then great disappointment in the budget year immediately following when people found that no money at all had been allocated for construction. We were told that there were planning delays but that everything was on schedule. Of course, the project ramped up again in the lead-up to the 2003 election. Again, the models came out.

I went out selling Parramatta to investors saying, 'This is a booming, go-ahead city. Come and put your money here. We've got this great new rail link going in with a $1.6 billion commitment.' I could point to 20 press releases from the New South Wales government and the Minister for Transport Services solemnly undertaking to build the rail link. The new Labor member for Parramatta, elected on a groundswell of support for this kind of infrastructure commitment, proudly stated in her maiden speech that the Parramatta rail link was an example of state Labor delivering for Parramatta. Then in the first week of June there was a 180 degree volte-face by the new transport minister Michael Costa. The minister said, 'It is not going ahead. Bad luck.' We in Parramatta feel like a bunch of suckers, and we are going to pass the rail link and motorway tolls test over future Labor promises. *(Time expired)*

Stirling Electorate: Councillors

Ms JANN McFARLANE (Stirling) (9.49 a.m.)—I would like to take the opportunity today to congratulate the recently re-elected councillors of the City of Stirling who are part of my electorate of Stirling. They are June Copley of Balga ward, Bill Stewart of Coastal ward, Adam Spagnolo of Osborne ward, Brian Ham of Doubleview ward and Peter Rose of Hamersley ward. This year all sitting ward councillors were re-elected. It was the third election to be conducted by the Australian Electoral Commission in Stirling using the postal ballot system, and the vote has now risen to approximately 30 per cent of voters. I would like to commend the people in Stirling who gave of their time to vote. Democracy is precious and we all must nurture it. I would also like to congratulate Tony Vallelonga on being re-elected as Mayor and on the stability and consistency that he continues to bring to the City of Stirling.

I would like to tell the House something about each of these wonderful volunteers. Bill Stewart involved the council and their youth advisory council in a project with me to develop a youth card. Bill played a role and organised our recent youth forum, which was held at the Mirrabooka Senior High School, where Bill is a teacher. It was a great success and it allowed me to hear about the issues that concern the young people in my electorate. The most exciting outcome was the youth card that was produced in response to the issues raised. This card is being distributed to the youth of Stirling, and it provides them with details of the services that are available to them. I would like to thank Bill today for the time that he spent working with me on this worthwhile project. Bill is committed to helping the youth of Stirling both as a teacher and as a councillor. Receiving 66 per cent of the vote is a sign that the people of the Coastal ward appreciate his grassroots work in their area.

June Copley was elected unopposed to her position. She too has been very active within her ward and has worked with me on a number of projects. In conjunction with the Balga Po-

lice and Citizens Youth Club, we were able to have a skateboard ramp provided for the young people of the area. June is a member of the Balga Action Group, a wonderful group of active residents working to improve their local area. June and I found great enjoyment and inspiration working with the Balga Action Group in organising community festivals in 2001 and 2002.

Adam Spagnolo has worked with me on a number of projects. Adam is a member of the Osborne Primary School Centenary Committee, and we are working hard to promote the school and its celebrations in this, its 100th year. These celebrations will culminate in a reunion in October of all past students and families, who the committee are in the process of finding. Brian Ham, as a member for the Doubleview ward, has helped to make a difference in the lives of people with disabilities and worked with me and the Sussex Hostel Parents and Friends Association on the covered sensory garden project. Peter Rose of Hamersley works hard for local seniors groups and his church and is a much respected person in his local area.

I would like once more to acknowledge the great work done by these volunteers. They are a wonderful group of people working very hard to improve our community. I look forward to another four years of cooperation with these councillors and working on local projects.

Volunteers: Public Liability Insurance

Mrs GASH (Gilmore) (9.52 a.m.)—Today I want to raise the issue of public liability insurance for older volunteers. Many insurance companies simply refuse to extend public liability to cover volunteers aged 70 or over, and this can have a devastating effect on those organisations which rely on volunteers to carry out the work in their community. These are organisations such as the Country Women's Association, Red Cross, Meals on Wheels, RSL and veterans groups, as well as Legacy, Probus Clubs, the Smith Family, View Clubs, the St Vincent de Paul Society, the RSPCA, WIRES, many sporting clubs and organisations, multicultural groups and even political parties—all of whom rely on volunteers.

In my electorate, the Huskisson Senior Citizens Club will no longer admit members over the age of 85 because of their justifiable concern. I am not too sure how dangerous these aged volunteers can be as they sort through donated clothing, conduct street stalls to raise money for the underprivileged or prepare meals for the housebound—perhaps the insurance companies know something that we do not.

Let us take a step back and think about what volunteers contribute. Volunteers across Australia contributed 558 million hours in 1999-2000; had they been paid, they would have earned $8.9 million. The non-profit and volunteer organisations contribute more to the Australian economy than Australia's farmers, miners or the communications sector, according to the figures released last year by the ABS. In Australia, 4.4 million volunteers work an average of 1.4 hours a week, but those in the age group 65 to 74 contribute 2½ hours per week and those in the 75 and over age group give 2.3 hours of their time. These figures are very conservative, as in Gilmore you could double those figures at least.

Volunteering Australia has identified the potential negative effects on our older volunteers. Volunteers are becoming concerned about an inadequate level of protection for themselves and their organisations and may become reluctant to participate. Some organisations may continue to operate without an adequate level of public liability insurance, thus exposing third parties to an unacceptable level of risk. Organisations such as the Huskisson Senior Citizens Club are reducing the involvement of volunteers in order to minimise the risk, thus reducing

the level of community service they provide. Some organisations may completely cease to operate.

The government has done its part as a result of a ministerial meeting on public liability insurance held in May 2002. A decision was taken between the Commonwealth and state and territory ministers that a number of jurisdictions, including the Commonwealth, would introduce legislation to protect volunteers from being sued for negligence; and the Commonwealth Volunteers Protection Bill 2003 has since been passed.

I finish by saying that I can only imagine how your self-esteem must be affected when you are told, 'We don't want you or your assistance, because you are too old.' I feel very strongly about this and make mention of the work of our elderly; with great affection, I call them the 'grey power'. Their worth to Australia and its people is beyond comprehension. It is also a fact that many of the people I seek guidance from are well above the age group of 65 to 70. I cannot express my anger more fully, and I will make sure that I do all I can to see that this matter is resolved.

Queensland Government: Land Clearing

Fuel: Ethanol Content

Mr KATTER (Kennedy) (9.55 a.m.)—I deeply regret that the member for Maranoa got up and castigated the Queensland government. All of the statements on tree-clearing in Queensland that I saw were, in fact, made by Dr Kemp, the federal minister. I asked the library who was responsible for them and, most certainly, all the stuff that the library has sent me was from Dr Kemp. For those people who do not know, there is a narrow band in the south of the state of Queensland, probably no more than 100 or 200 kilometres wide, where the clearing has taken place—past tense. All of Central Queensland, with the exception of an area south-east of Emerald, is completely uncleared and completely untouched. It never will be touched because it is worth only $50 or $100 an acre. You most certainly cannot clear country like that. Also, it does not have many trees. Most of it, in fact, is naturally untreed. The interesting part is that seven million hectares of the formerly treeless part is now covered in trees. The proposal that is going forward is absolutely stupid, but it shows so clearly how the government of Australia is not the government of Australia. It simply does not understand huge sectors of its own country and how the ecology of those areas works. Here is a classic case of that. And, Mr Deputy Speaker Causley, I am terribly sorry that you and other people in the National Party have to bear the brunt of these dreadful decisions.

As far as I am concerned, the last four weeks have probably been the worst weeks in politics because of the damage that has been done to the people that I represent and the people of my homeland. When I was handed a rifle and given 24 hours notice to go and fight the Indonesians in Borneo as a young man, standing behind me were 150,000 SLRs—self-loading rifles—and a million semiautomatic weapons to defend this country. There are now 50,000 semiautomatic weapons—that is all. We were given away to the enemy in the last war—we are very sensitive about these issues. With the sale of Mount Isa Mines—the last of our giant mining companies—80 per cent of the mineral resources of this country are now in the hands of foreigners. Seven years ago, that 80 per cent was in the hands of Australians. And the government has sat idly by and let all of this happen.

The decision on ethanol smells to the high heavens. The National Party, I deeply regret to say, came out publicly and said they had secured this benefit for the ethanol industry. Every

single potential ethanol operator in this country has rolled his swag and gone away because there is absolutely no hope. The decision will close down forever the ethanol industry. The hypocrisy of those in this place to get up and say they were saving it—*(Time expired)*

The DEPUTY SPEAKER (Hon. I.R. Causley)—Order! In accordance with standing order 275A, the time for members' statements has concluded.

CIVIL AVIATION LEGISLATION AMENDMENT BILL 2003

Second Reading

Debate resumed from 27 March, on motion by **Mr McGauran**:

That this bill be now read a second time.

Mr MARTIN FERGUSON (Batman) (9.58 a.m.)—It is a very hard act to follow the member for Kennedy, but I will do my best. I do have some sympathy with him with respect to his reaction to the ethanol decision. It is not about the ethanol industry; it is about one donor to the Liberal Party. The member for Kennedy knows that as much as I do. I would also have some personal concerns if there was a move to take away the right of petrol stations to advertise the amount of ethanol in the petrol—

The DEPUTY SPEAKER (Hon. I.R. Causley)—The member for Batman would be well aware that he has to address his comments to the matter before the chair.

Mr MARTIN FERGUSON—It is all related to the overall operation of the transport portfolio, Mr Deputy Speaker. The Civil Aviation Legislation Amendment Bill 2003 before the House this morning amends three separate acts, to make various changes to aviation policy. Following discussions with the opposition, the government has also foreshadowed amendments that it intends to move in the Senate, and this morning I intend to give the opposition's views on those amendments. The bill amends the Civil Aviation Act and the Air Navigation Act to make various changes to related aircraft definitions.

Mr Katter—Hear, hear!

Mr MARTIN FERGUSON—This is a united front today, Member for Kennedy!

Mr Katter—You are absolutely right—not always, but on this occasion.

Mr MARTIN FERGUSON—The changes will facilitate the ongoing review of civil aviation regulations and provide for the simplification and the international harmonisation of Australia's civil aviation regulatory regime. Specifically, the changes will modify the act to amend aircraft maintenance related definitions and terminology. The new definitions of 'state aircraft' and 'Australian aircraft' will align with international law and practice. The bill also makes minor corrections to provisions relating to goods seized as part of an investigation.

The bill amends the Airports Act 1996 to repeal section 192. This change will remove the requirement for, and application of, ministerial determinations under that act. This goes to airport services that would otherwise be subject to declaration provisions under part IIIA of the Trade Practices Act 1974. These determinations are, by necessity, in general terms and subject to ACCC scrutiny. The Productivity Commission found that this section provides no tangible benefit to stakeholders. There was therefore no compelling case to keep the process, and it declared all airports subject to the generic access provisions of the Trade Practices Act.

The amendments related to article 83bis agreements are significant. The bill transfers from the Minister for Transport and Regional Services to CASA the function to enter into article

83bis agreements with the national airworthiness authorities of other countries. Under the Convention on International Civil Aviation, Chicago 1944—best known as the Chicago convention—a party state is generally responsible for the safety regulation of aircraft on that state's register, irrespective of where the aircraft is in the world. Some obvious difficulties in administering safety regulations arise when an aircraft registered in one country is operated in another country for a substantial period.

Article 83bis is a relatively recent addition to the Chicago convention. It correctly enables the transfer of safety regulatory functions from the state of registration of an aircraft to the state in which the aircraft is to operate. Naturally, this can only occur with the agreement of both states. ICAO considers that such agreements should be made between the relevant national airworthiness authorities, as they are administrative instruments of less than treaty status.

Australia ratified article 83bis on 2 December 1994, after amending the Civil Aviation Act by the Transport and Communications Legislation Amendment Act (No. 2) 1993 to give effect to the conventions. This bill ensures that CASA will have the function to enter into article 83bis agreements on behalf of Australia. Public scrutiny and transparency of the process are ensured because it is a requirement that CASA publish in the *Gazette* the particulars of an article 83bis agreement or an amendment to such an agreement. There will also be detailed administrative and technical provisions concerning the implementation of article 83bis agreements in the regulations.

It is also interesting to note that some of the amendments included in this bill have been debated in the parliament previously as part of earlier bills dating back three years. The contentious aspects to stop the passage back then are now no longer included in this bill. Clearly, that effectively made it easier for the opposition to support the bill this morning.

With that in mind, I would now like to address an additional matter that relates to the operation of Airservices Australia: a proposed change which I think is exceptionally important to the future operation of Airservices. It is my understanding that the government intends to use this bill as the vehicle for amendments to the Airservices Australia Act 1995. The objective of the stated amendments is to clarify and expand the range of functions available to be undertaken by the organisation. The amendments also answer opposition calls to free up Airservices to exploit opportunities in overseas and domestic markets. It is therefore about clearly giving us a better opportunity to expand our activities overseas and, in doing so, to achieve the winning of export opportunities, which means jobs and export earnings for Australia.

I have previously spoken at length in the House about our concern with the government's competition policy. I think this is partly related to the overall consideration of where Airservices goes in the future. For too long, Airservices Australia has been watching its back in Australia, guarding against the short-sighted economic rationalist policies that are seeking to break up the organisation. There is effectively a merry little band of protagonists who whine about the cost of safety services. I simply have the view that we as a nation must go out of our way to guarantee safety in the air. These people are focused on strategies to put Airservices on the backfoot and on the defensive, without any strategic opportunities for the future, and, in doing so, to undermine our capacity as a nation to guarantee safety in the air. It has long been the view of the opposition that Australia's national interest—and I think this is the key to the debate—is not served properly by this approach. It is the view of the opposition—and it has

been expressed on a number of occasions in the House—that Airservices Australia should be unshackled from this narrow short-sighted focus.

There is a significant demand for the professional technical air traffic management and specialist aviation fire services provided by Airservices. We should also appreciate that Airservices operates in a global market, and our Airservices Australia, which is correctly 100 per cent owned by the Australian taxpayer, is a world leader. Rather than seeking to break up that world leader and undermine its capacity to go forward, we as a nation should be proud of its achievements and do everything possible to open up opportunities for it to expand and improve its performance in the future. Without any doubt that would be in our nation's best interest. Australia's national interest is not best served by a phoney plan—and it is a phoney plan, at best—to construct competition domestically.

The opposition will continue to lobby that way so as to ensure that Airservices is freed up to capitalise on those opportunities and—I think this is also exceptionally important to our national interest—to create highly skilled Australian jobs in doing so. That is what Australia has to be about. It has to be about not only producing goods and services in Australia on the basis of the level of skill of our work force but also creating export opportunities on the basis of a highly skilled Australian work force. Airservices is such an employer. It has historically prided itself on its commitment to the training of its work force. If we succeed in creating extra opportunities for freeing the capacity of Airservices to compete internationally, we will have an even greater opportunity to create more skilled opportunities for Australia in the future in what I regard as one of Australia's foremost employers in terms of its commitment to training.

I give credit where credit is due. Airservices has to seize the opportunities that might arise out of the amendments that will be supported by both sides of the House with respect to changes in the method of its operation and, in doing so, take another important step forward not only to go beyond Australia's shores, as was originally intended in the act, but also to make sure that we capitalise on additional employment and training opportunities for Australians.

With respect to those who work in Airservices Australia, I appreciate that they work under intense pressure and stress. I appreciate the difficulties that they experience as a result of the nature of the job that they perform in making Australia's skies safe. It is for that reason that Australia's national interest is best served by permitting Airservices to compete globally. It is also beneficial, for example, to include Airservices' highly specialist and sought after functions in our international aid effort. We need only to think about where we find ourselves as a nation today: having to make a decision to give assistance to, I suppose, bed down a sense of safety and good order in the Solomon Islands, which is not too distant from Australia's shores. That, in many ways, is part of our aid effort, but we also have to make sure that we use government organisations such as Airservices Australia to offer aid in the form of safety in the air in the regions in which we operate.

I hope that as a result of the changes embodied in the amendments today that the government actually sees the new found opportunities on the aid front to give some assistance to our neighbours in the region in which we live and operate. I emphasise that because I think for far too long we have ignored the potential opportunities to not only help Australians be gainfully employed but also assist those who are less advantaged in our region than we are as a nation.

That effectively means that we have to walk away from having a narrow focus toward the method of operation of Airservices Australia and, I suppose, the unfortunate focus by the current government on short-sighted potential privatisation decisions, which have no long-term benefit to Australia. In essence, I consider that could eventually undermine safety in the air in Australia.

I think it is about time that we seize this opportunity because, for far too long, too much focus has been put on attempts to close what are termed 'unprofitable services', especially in regional areas. I believe there is a responsibility of government in such regional areas to cross-subsidise some of those activities so as to guarantee that the services are provided. I am sure that a range of members in the House also appreciate that sense of commitment to regional communities. Those regional areas should therefore not be denied specialist, highly skilled services merely because those services cost more to provide in regional and remote Australia. But, unfortunately, I must report that, on my reading of the agenda, that is what the Howard government would like to do in terms of the method of operation of Airservices Australia in the future, in spite of its rhetoric.

I can recall the Prime Minister talking about putting a red, flashing light over regional services that departments wanted to close. However, I must say that I am becoming increasingly concerned that the government is yet again slipping into old habits of ideology. We must be conscious of that because, unless we stand up to the government, regional communities and remote areas of Australia will be the big losers if the current ideology that prevails in the cabinet room is allowed to enter into, for example, the debate about the future structure, nature and method of operation of Airservices Australia.

By way of example, I very seriously cite the Willoughby report that the Minister for Transport and Regional Services tabled in the House just recently. With the amendments foreshadowed today, the opposition believes that the government should change its focus. We believe that the government should now embrace a growth focus for Airservices Australia, contrary to the suggestion in the Willoughby report that was tabled by the Minister for Transport and Regional Services only a matter of a couple of weeks ago.

I take you to the Willoughby report because I think it suggests a far different approach from that I have taken today in supporting the bill and the amendments that will be brought forward by the government. We saw the Minister for Transport and Regional Services tabling the Willoughby report. But one has to go to the detail of the recommendations in that report to get an appreciation of the side game that might be played by some who are either in government or have the ear of government. The report focuses not on strengthening Airservices both domestically and internationally but on introducing competition for Airservices functions. I believe the minister implicitly supported the report by the method in which he tabled it in the House. It is a report which I believe has a backward, unAustralian approach—namely the requirement that government organisations such as Airservices Australia be used in our nation's best interests.

The report was concocted for the political purposes of vested interests. I say that with some emphasis. It is about advancing the political purposes of some vested interests. The CEO of Airservices Australia, Mr Bernie Smith, said in an estimates committee hearing just a couple of weeks ago that he was gobsmacked at the draft report and at the claim that the airspace reforms would save $70 million. After looking at the detail of the report—and its sloppy con-

struction and assumptions—I thoroughly agree with the reaction of Mr Smith. The opposition therefore believes that the minister in this debate must come clean and outline clearly his views, and the government's views, on the Willoughby report. It is no good to just table the report. The government must make a response to it, and must clearly indicate just what that response is to the Australian community and to the industry—and all of its workers—that depends on the operation of Airservices Australia.

He must also remind the Australian community of who is running the aviation industry in Australia. The Airspace Reform Group was commissioned by the Minister for Transport and Regional Services as an advisory group on airspace reform. We have on occasion correctly criticised the structure, because we have serious worries about its method of operation and about whether or not its method entails not only detailed consideration of cost issues but also adequate emphasis on airspace safety in Australia—rather than being a short-sighted costing exercise. I personally believe, and it is the view of the opposition, that airspace management is not something to be run by enthusiastic amateurs based on what they think may or may not be occurring in the USA.

The Australian public wants to know what else the Airspace Reform Group have been given responsibility for. Are they, for example, dictating policy on competition and the future of Airservices Australia? On all the evidence to date, it would appear that unfortunately the answer is yes; that the Airspace Reform Group—not the minister, not the department and not the government—is basically running airspace reform in Australia. I think the minister has to accept that it is his responsibility to run the airspace activities of Australia and that he has to step in and clarify where he stands with the Willoughby report and what the role and function of the Airspace Reform Group is so as to remove any doubt or worry about the future of airspace activities in Australia. In the end, it is about safety in the air, and if the minister does not clarify these very important questions and a major accident occurs it will be on his head for failing to stand up, accept his responsibilities and give clear direction to the Airspace Reform Group and that small number of enthusiastic amateurs who want to impose their view on organisations such as Airservices Australia, which has a more professional and better appreciation of what we as a nation really need in terms of air safety.

On that note, I believe that Airservices Australia is the organisation to have carriage of these measures with other professional government and associated government aviation regulatory groups. I refer in passing to a study by Eurocontrol—the European equivalent to Airservices Australia—which was tabled in estimates committee hearings. The report shows a comparison between the Americans, the Europeans and Airservices Australia. In almost every measure, Airservices Australia came out on top—the best in the world at air traffic control and, importantly, air traffic control productivity.

From time to time the minister, Leader of the National Party and Deputy Prime Minister, stands in the House praising airspace reforms, but he is not listening to what is being said in the aviation community. It is about time he listened to people in the aviation community rather than being told by the Prime Minister that he is only allowed and expected to talk to one person—Dick Smith. The aviation industry is bigger than Dick Smith. It might have suited the Prime Minister to bring Dick Smith back into the ring in the lead-up to the last election so as to avoid electoral complications in the seat of Gwydir. But it is about time we as a

nation decided that air safety is more important than the electoral prospects of the coalition in the seat of Gwydir. Dick Smith has to be put back in his box.

The DEPUTY SPEAKER—The member will realise that the chair has been fairly tolerant of the breadth that he has gone into in this debate. I would like to bring him back to the terms of the bill.

Mr MARTIN FERGUSON—Mr Deputy Speaker, perhaps you do not appreciate the breadth of the amendments and the consultation that has occurred between the government and the opposition with respect to what is entailed in this bill. It goes to airspace reform and to a very special deal between the Prime Minister and Dick Smith with respect to the seat of Gwydir in the last election. Having made that point, there is a strong argument now that Dick Smith's NAS model is not the same as the American system. That is exceptionally important. There are fundamental differences between the two countries and their airspace systems. For example, Australia does not have 100 per cent radar coverage. American pilots are offered directed traffic services in class E airspace not offered under the proposed Australian system. There are serious safety issues, to be judged and assessed by professionals—not by enthusiastic amateurs who could endanger our safety in the air.

Because of the differences now apparent, the minister must consider whether a full design safety case should be conducted. That is of paramount importance to this debate. If he does not conduct such a study and we go wrong on the airspace reform front, I will guarantee that he bears full responsibility for those mistakes. And so he ought to. I am not prepared to sit idly by and risk the future of the Australian travelling public merely because an enthusiastic amateur such as Dick Smith has the ear of the Prime Minister. He must also accept the responsibility if there are flaws and safety consequences. That is important because the evidence is mounting that the reform process is going astray. It is time that the minister took hold of his responsibilities for aviation activities in Australia and looked at the facts. He must stop being hoodwinked by vested interests and enthusiastic amateurs.

Subject to seeing the detail of the amendments to the Air Services Act, I have foreshadowed Labor's support for the government amendment. It does flow from detailed discussions. Some people operated on the basis of ignorance with respect to the details involved in this bill. It reflects on them rather than on those involved in those discussions who have gone out of their way to get this bill right. There have been detailed discussions between the government and the opposition over an extended period. I appreciate that there is ignorance and a lack of understanding on the other side of the House on the issues that I have raised today. In supporting these amendments, Labor acknowledge that the national interest is best served by an outward looking, internationally competitive organisation. Labor, unlike some of the ignorant contributors to the debate, respect the professionalism within Airservices Australia. We do not believe that airspace management and reform should be run by those not directly equipped with the skills and knowledge to design airspace. It is a highly skilled, specialist task.

The minister has many questions to answer on his airspace reform process, the future direction of Airservices Australia and aviation policy. I believe that this bill provides an opportunity for the minister to do that. I personally appeal to him to come here and answer the fundamental questions that I have raised today. If he again refuses to do so, then he is leaving open a very serious debate about whether or not he accepts his full responsibilities on the

aviation front. He is leaving himself open to very serious accusations if a major accident occurs as a result of the neglect of his responsibilities or duties. He should then be hounded out of office—not only from his ministerial responsibilities but also from the seat of Gwydir. If he fails to attend to his duties as the Minister for Transport and Regional Services and a serious accident occurs as a result of enthusiastic amateurs running aviation airspace reform in Australia, then it will be on his head and I guarantee that that will be rammed home in no uncertain terms.

It is time the minister laid out his plans and took some personal responsibility for his portfolio. He is an expert on Telstra and on water reform, but when it comes to his own portfolio you hardly hear from him. You hardly hear any comments from him on, for example, airspace reform. You hardly hear any comments from him on the shipping industry. You hardly hear any comments from him on his so-called future land transport plan, which everyone knows is a shambles. I think it is about time he got back to his own responsibilities rather than having a view on every portfolio other than his own. The Australian public deserves that. The Australian public expects that. And, frankly, we on the other side of the House expect that, because that is his responsibility. Labor support the bill, including the foreshadowed amendments. Those amendments correctly follow detailed consultation and discussions to try to make sure that the bill and the amendments guarantee the future of Airservices Australia.

I thank you for the opportunity, Mr Deputy Speaker, to address the House, but I leave you with this thought. Safety fears exist in the Australian community, especially in rural and regional areas. It is the responsibility of everyone in the House to send a message to the Minister for Transport and Regional Services: get your eye back on the job; air safety deserves your full attention. *(Time expired)*

Mr LINDSAY (Herbert) (10.29 a.m.)—I appreciate the opportunity to make a short contribution to the debate on the Civil Aviation Legislation Amendment Bill 2003 this morning. I pay tribute to the staff and management of Airservices Australia. They do a mighty job in this country with the responsibility that they have and the significant number of aircraft movements across the country these days. They do it safely, efficiently and in a marvellous manner, and I recognise that.

The member for Batman in his contribution this morning made an observation about the possible higher cost of providing services in regional Australia and how that might be managed by the government. I assure the member for Batman that the government has not taken its eye off regional Australia in any way whatsoever. Only this week the Parliamentary Secretary to the Minister for Defence announced a landmark decision in relation to Defence contracting, where there will be incentives for local contractors, wherever they might be in the Commonwealth of Australia, to be chosen over and above the prime contractors in Sydney or Melbourne to provide the goods and services that Defence requires across its many facilities in Australia, and that is going to continue.

I am pleased to have the opportunity to speak on this bill because it has some significance for Townsville in relation to aircraft maintenance. The amendments in this legislation will encourage and make it easier for aircraft maintenance operators, wherever they might be in the Commonwealth of Australia, to accept more maintenance work of foreign aircraft. That is a good thing. We have some very good aircraft maintenance facilities in this country. In Townsville we have Hawker Pacific, which is quite capable of maintaining many sorts of air-

craft. I would like to see the increased maintenance opportunities that will be provided by the passage of this legislation being taken up in Townsville. It is not widely known that Virgin Blue's aircraft maintenance—deep level maintenance—is currently done in New Zealand. That really should be done in Australia. It could be done in Townsville. Aircraft from the Pacific—for example, PNG—could also be serviced in Townsville. That would be very good for the Townsville community. Of course, it would be an export earner for Australia, and that helps our country.

The government's aviation reform agenda is ongoing, and so it should be. This government does not stand still: it is proactive in changing with the times as the country modernises. This bill will allow benefits and efficiencies to be derived from the existence of similar aviation regimes in the global market. I have dealt with the aircraft maintenance benefits of this legislation. There are also benefits, by way of a fairly technical amendment, from transferring the function of entering into 83bis agreements with other countries from the Minister for Transport and Regional Services to CASA, as the national airworthiness authority, in accordance with ICAO recommendations. I also note that the legislation amends other minor provisions, such as those relating to goods seized as part of investigations, to facilitate the smoother operation of CASA. That is a magistrates court matter. It is a technical amendment but a commonsense view.

I am surprised that the opposition is signalling that it will oppose an amendment that is going to be introduced into the Senate which will allow Airservices Australia to meet the intention of the original act to allow Airservices Australia to export its services and facilities. There is a bit of an anomaly there at the moment. Surely the opposition cannot oppose allowing Airservices Australia to export both its services and facilities. As I indicated when I began my contribution, I hold Airservices Australia in very high regard, and their services and facilities should be available to overseas purchasers if they so desire.

I was pleased to see the member for Batman place some emphasis on air safety. In choosing to fly, the most important consideration of passengers is always safety. The government has a similar goal: to make sure that, when our aircraft fly, passengers can be assured that they are flying in the safest country in the world. There have been some difficulties with safety regulation of aircraft. These amendments will enable us to address those difficulties. Where an aircraft is registered in one country—not Australia—and it has operated for a substantial period of time in Australia, it is still regulated in relation to safety by the state's register where it is nominally registered. This amendment, as I understand it, enables the transfer of safety regulatory functions from the state of registration to the state of operation.

This is an eminently sensible measure. It simply means that if a foreign aircraft registered in a foreign country is operating in Australia for an extended period we can regulate the safety aspects of that aircraft through agreements with other countries. As I understand, there are no such agreements at the moment, but they can be entered into following the passage of this legislation. That is all I want to say on this bill. I welcome the amendments that are being made and I invite the Australian maintenance industry to look at the opportunities that will come from the passage of this legislation.

Mr HATTON (Blaxland) (10.36 a.m.)—I am happy to address the Civil Aviation Legislation Amendment Bill 2003 and also the indicative amendments that the government plans to introduce into the Senate. This bill has had various forms over time. Previously there were

some difficulties in terms of differences between the government and the opposition in regard to how to proceed with various amendments. The indication that I have from the shadow minister and his advisers is that most, if not all, of those contentious matters have been taken out of this bill. The government has worked to resolve differences in order to put this bill through the House and the Senate and to ensure that Airservices Australia is not only assured of its current role and position but also, in properly defining its role now and going forward, placed in a position where it can export services and facilities overseas. I think that is an extremely important change.

The shadow minister indicated the current difficulties in the Solomon Islands. The Australian government is cooperating with the New Zealand government—and possibly the government of Fiji—to provide police and associated military to ensure the safety of persons in the Solomon Islands. The provisions under this bill allow for Airservices Australia, where it has not been in a position to do so before, to export its services and facilities to the Solomon Islands and to other islands in the Pacific. That could be done on the basis of fee-for-service or the normal charge for commercial operations, or it could be done in the way we have provided many facilities and services in other areas to countries in the Pacific—as part of our foreign aid program. We know how well our programs have worked at the parliamentary level in our associations with countries in the Pacific. Those countries have been very well served and helped by the staff of this parliament. Fundamental training in the practice of how to run assemblies or houses of parliament has been undertaken here and our personnel have gone to assist there. That kind of cooperation can be put under many heads, but it is a form of aid to foreign countries that is fundamental and practical.

This bill provides the foundation stone to clarify not only the regulations in regard to Airservices Australia and its operations within Australia but also the situation where we could, for the first time, export those services and facilities either on a commercial basis or on the basis of providing foreign aid. The matters in this bill which clarify what was decided in the Chicago convention dealing with air safety regulations and so on are very important. There has been a fundamental change in the responsibilities of aircraft owners and operators and those who do the maintenance on those aircraft, and the state in which those aircraft were originally registered.

Until the changes were made in the Chicago convention and until the very core of the matters addressed in this bill are passed through to become an act, the fundamental responsibility for an Australian owned aircraft operating in another country for an extended period lies with the registering state. This applies even to an Australian aircraft registered here, originally owned, operated and maintained here, which is now being used in the United States for instance, whether it be to do joy-flights in Hawaii or to fly through the Grand Canyon. A number of Australian pilots get their basic training at both of those places and a number of Australian aircraft are used there. The current situation is that the responsibility for the maintenance, control and safety of those aircraft still rests with the originating state, with Australia.

As I understand it, the provisions in this legislation transfer that responsibility to the place that the aircraft is used. If the aircraft were used in the state of Hawaii, it would then come under the regulations of that state and ownership of the responsibility for its care, maintenance, control and regulation would then pass to that state. Equally, aircraft from overseas registered in the United States, for instance, which operate here on a long-term basis would

come under local control. I think that is an important change. A very large part of the core of this bill deals with article 83bis agreements between the national air authorities of those states which are a part of this.

I want to go a bit further on this matter. Bankstown Airport is not only the geographical centre of Sydney but also the major employer in my electorate of Blaxland. A number of the matters that are dealt with in this bill directly impinge on the operation of businesses at the airport. There are amendments in this bill dealing with aircraft maintenance related definitions, with the new terminology and with the definitions of state aircraft and Australian aircraft to align us with international law and practice. They have a day-to-day relevance to the people working in Bankstown Airport who maintain aircraft and who build businesses around that. They will be affected by the changes in this bill—the ones I have just referred to as agreed in the Chicago convention—namely, where a plane originally registered overseas comes into Australia and where people do the work to take control of that.

One of the other matters dealt with here affects owner-operators. In the past, there has been considerable contention about where the onus and the responsibility actually lay for an aircraft that was found to be not properly maintained. Where owner-operators have other people do the maintenance of the aircraft, it was generally held that it was the owner-operator who was responsible for that. This bill clarifies that and allows for the proposition that the people who actually do the maintenance work are the ones who need to be taken into account. The explanatory memorandum puts it this way:

> Many aircraft operators do not have aircraft maintenance done 'in house', and therefore there may be no person who could be regarded as 'the head of the aircraft maintenance part' of the operator's organisation. The addition of the word 'control' is designed to ensure that even when aircraft maintenance is not done by the aircraft operator itself, if a particular person is responsible for making arrangements for aircraft maintenance, then that person will be part of the operator's *key personnel* for the purposes of section 28 of the Act.

It is a simple change and one that is long overdue, but it helps to clarify not just the working conditions but also the question of liability of those people who operate businesses out of Bankstown.

There are also some other parts in this bill that will affect the operation at Bankstown, because Airservices Australia are responsible for control towers at Bankstown Airport and because the services they provide also include navigation aids and so on. There have been considerable complaints over time from a number of the operators at Bankstown Airport about whether or not they should have to pay for those services provided by Airservices Australia—not the navigation aids but the manning of the control towers. There has been a contention on the part of some people that too many people were working in the control towers and that the cost of those control towers, borne by them as operators, was too great.

I think in the past few years we have seen a consolidation of the view that the government has put forward both through the Civil Aviation Safety Authority and through Airservices Australia that, when you are dealing with the question of airspace reform, there is a fundamental consideration that, despite the view of a number of people operating out of Bankstown, airspace regulation should properly be conducted by Airservices Australia personnel and that those people operating the control towers are a necessary part of that infrastructure.

The shadow minister alluded to Dick Smith, to his interventions in regard to airspace reform and to the fact that, as a significant amateur operator of both conventional aircraft and helicopters, he has pushed a very particular view on how airspace should actually be utilised. He has pushed that very hard for a long period of time. A number of people in the industry have agreed with him; others have said that it has been the wrong track to go down. But when it comes to the operation of airspace within the city of Sydney, with Bankstown as the geographical hub of Sydney, at the very centre of it, you have a different set of considerations from those operating across New South Wales or Australia wide.

An indicator of just how difficult it is to make regulations in these areas is that, if you go to the government's original decision on 13 December 2000 to change the entire way in which Bankstown Airport was to operate in future, the government not only mandated that the sale would go ahead—and we expect that to be in the second half of this year—but also mandated that the buyer would have to extend the length of the runway and effectively ensure that it was deeper, that the buyer would have to allow for aircraft up to at least 737s to land at Bankstown and that the full operation of Bankstown as an overload airport would have to proceed.

Very recently, Minister Tuckey, on behalf of Minister Anderson, made an announcement in which he said, 'No-one really needs to take much notice of that any more; we're not insisting on those provisions.' That is about all he said—that they did not really mean everything that had been said on 13 December 2000 and that, because Ansett had crashed and a lot fewer people were using the facilities at Kingsford Smith, they did not really see a necessity for Bankstown as an overflow airport, so get on with your life. Nothing more has been said to the operators of general aviation in the city of Bankstown at Bankstown Airport. There has been no guidance in the general view that the government takes of what is necessary in terms of the operation of Airservices Australia at Bankstown Airport, the operation of the towers and the operation of the normal flight paths out of Bankstown and how they would interact with Sydney.

But we know that studies of airspace capacity between Sydney and Kingsford Smith were undertaken in an attempt to demonstrate that 737 aircraft or above could use Bankstown as a jet way. We know that that went on for many months and that the correct use of that airspace was being assessed. We know also—although the government have not publicly announced this; all they have done is to say, 'We don't really want to go with it but we're not going to press any particular changes here'—that it would have been impossible to operate Bankstown as an overflow airport and as a jet way because of the operation of airspace over Kingsford Smith.

Mr Murphy—Correct.

Mr HATTON—Absolutely. The member for Lowe interjects, and I will take his interjection because he is dead right. We know that it was impossible to do it. Anyone with their head screwed on on 13 December 2000—that is, anyone who was not the federal Minister for Transport and Regional Services or those others who agreed with him—would have known that it is impossible to utilise Bankstown Airport and Kingsford Smith interactively for jet aircraft; they are too close together. When there are contrary winds, the operation of the cross-runway at Kingsford Smith does not allow for Bankstown Airport to be used at the same time. It took this government a very long time to wake up to that fact, and it demonstrates how ill informed they are about air safety matters and how ill informed they are and have been about

the operation of airspace between Bankstown and Kingsford Smith. It also indicates just how foolhardy and silly, as we said at the time, was their proposal to completely transform Bankstown Airport's operations.

I make a request of the Minister for Transport and Regional Services, at this point in time, in dealing with this bill as it clarifies the operation of Airservices Australia at Bankstown Airport, Australia wide and now internationally. I ask that the minister deals with the long-term operation of Bankstown Airport and the safety of the people in the city of Bankstown in terms of the operation of that airport and that he rule out once and for all—in writing, in black and white—the stipulations that were to be put from the sale of Bankstown Airport. It is not enough for Minister Tuckey, instead of Minister Anderson, to come out and say a few short sentences about the fact that people in Bankstown do not really need to worry. We have no strong, clear, substantial, forthright declaration from this government that there will not in the future be any demand that at least Bankstown Airport operates as an overflow airport. They have not ruled that out at all. They have not ruled out the demand that, in the future, there may be a demand on the operator of the airport to lengthen the runway and to take jets, even though, operationally, we know that that is impossible. I would like the minister, in dealing with this bill, to clarify the situation for the operators of aircraft owners at Bankstown Airport, for those people who do the maintenance and for those people who do their business there, and to clarify exactly the position of general aviation within the Sydney basin.

From 13 December 2000 onwards not one word has been uttered from the lips of the minister for transport and aviation about adequate future provision for general aviation in the city of Sydney. We are dealing with the question of changes to Airservices Australia and changes to the way our airports in the Sydney basin operate, particularly with respect to Bankstown and Camden airports five years down the track. The land at Hoxton Park will be resold by a private buyer and more than 60,000 movements a year will be transferred to Bankstown and Camden. What will Airservices Australia be able to do to take into account that increased management task? How will they ensure the greatest safety of the people of the City of Bankstown as a result of the measures brought forward in this bill? What practical steps are they going to take to deal with it?

To this point in time, there has not been a single syllable—whether monosyllabic or polysyllabic—exit the mouth of the minister for transport and aviation on anything about the real future of the most significant employer in my seat, the employer of more local people from Bankstown than any other. Those people work directly for Bankstown Airport or its associated operations, and they will be directly affected by every one of the measures in this bill. Yet the government have neither the wit nor the word—nor maybe even the worth—in civil aviation legislation to lay it out straight that not only should Bankstown be ruled out in black and white as an overflow airport for the future but also all of those dumb provisions they incorporated on 13 December 2000 should be struck from the record for all time, with Bankstown's future operation assured on a sane, sensible, sound and sustainable basis. *(Time expired)*

Ms LEY (Farrer) (10.57 a.m.)—I welcome the opportunity to talk about the Civil Aviation Legislation Amendment Bill 2003. This is an omnibus bill which makes a number of amendments to the Civil Aviation Act 1988. These will, through the alignment of maintenance provisions and a series of other important changes, facilitate the ongoing review of civil aviation

regulations and improve the legislative framework for aviation safety in this country. The amendments will enhance safety regulation and have positive flow-on effects to the industry and to the consumers. The bill will also amend the definitions of state aircraft and Australian aircraft in the Air Navigation Act 1920, with those that were amended in the Civil Aviation Act 1988. It will also remove from the Airports Act 1996 a redundant provision that provides no tangible benefit.

Many of the amendments in this bill were before the parliament and debated in respect of an earlier bill, which lapsed with the last election. The Senate undertook a detailed investigation of the maintenance provisions at that time, and its recommendations have largely been incorporated into the bill. Full consultation has been undertaken with industry and the community with regard to the maintenance regulations. By aligning Australian aircraft maintenance requirements and terminology with international standards, this bill will allow the Civil Aviation Safety Authority, or CASA, to regulate not only the technical aspects of aircraft maintenance but also the control and management of aircraft maintenance. The new definitions included in this bill not only align more closely with international standards but also more accurately reflect the policy intention, which has not changed.

Through the use of clear and consistent terminology, these changes will assist Australian aircraft operators in meeting national and international legislative requirements. The definition of Australian aircraft will be changed to comply with international practice and to ensure that any aircraft that are unregistered or registered with an organisation will appear on the Australian aircraft register. Currently, when civil aircraft are leased and operated by the Australian Defence Force, they must meet both military and civil aviation regulations. The change in definition to state aircraft will ensure compliance with the Chicago convention and simplify the situation, so they will be subject to military regulation only. I note that military operational regulations are no less stringent than civilian ones.

Another important amendment to the Civil Aviation Act 1988 will transfer to CASA, from the Minister for Transport and Regional Services, the function of entering into so-called article 83bis agreements with the national airworthiness authorities of other countries. This function will allow CASA to overcome the difficulties involved in applying safety regulations to an aircraft registered in another country but operated locally. The 83bis agreements yield obvious savings in terms of more efficient use of resources, and they also yield actual savings in administration. This is consistent with our objective of harmonising our legislative framework with international standards of safety regulation. As the minister has stated, this gives our domestic operators more flexibility. They could lease aircraft to overseas operators during periods of low demand in Australia. Our maintenance organisations might also find opportunities to work on foreign aircraft where previously this work might have been carried out overseas. Clearly, if we are going to be a partner in the aviation world market in the manufacture of aeronautical products—for example, the parts for international aircraft or the overhaul of their engines when they are in this country—we need to use the same terminology and airworthiness documentation so that we can fit well into those markets.

The bill's amendments will also improve the legislative framework by removing ambiguity in provisions relating to how CASA carries out its responsibilities with regard to seized goods. The bill will amend the definitions of state aircraft and Australian aircraft in the Air Navigation Act to those that have been amended in the Civil Aviation Act 1988. The repeal of

section 192 of the Airports Act 1996 will make sure that all airports are subject to the same statutory provisions regarding access to essential facilities. This is in line with the Productivity Commission report that there is not a case for continuation of special access to facilities such as electricity or gas for airports over other industries. By harmonising Australia's standards with international standards, and by allowing CASA to enter into article 83bis agreements, this bill will definitely benefit the Australian aviation industry and the consumer by increasing opportunities and reducing costs. It is an important step in implementing the government's program of reform in the regulation of aviation safety.

I think it is fair to say that there have been some delays in the CASA regulatory reform program over the last few years, and I suspect that much of this is attributable to the complexity of aviation regulations. The June release of the Australian National Audit Office follow-up audit of CASA found general compliance with the 1999 audit recommendations, and the CASA regulatory reform program has proceeded with what I understand was a successful public conference earlier this year. This bill provides a good basis for the regulatory changes that we are now embarking upon. The bill also takes the opportunity to make minor amendments to the Air Services Act 1995 to make the operation of that act more consistent with both the original intent and the intent of the minister's charter letter to the Airservices Australia board of 26 October 1999.

The amendments to the act at clause 8 will amend the functions of Airservices Australia to allow it to pursue business opportunities consistent with its core business within and outside Australia. Most importantly, this will not affect the delivery of Australia's obligations under the Chicago convention. The amendment is supported by Airservices Australia and will have no implications for contestability for services provided by Airservices Australia in this country.

The amendments that are being moved in this bill form the first stage of a two-stage process finalising the future governance of Airservices Australia. The intent of both the explanatory memorandum to the Air Services Act and the government's policy is to encourage Airservices Australia to take up business opportunities consistent with its core business, both domestically and overseas. I note that the opposition spokesman for transport and regional services said that he was concerned about competition policy and regional delivery. I see no reason in any of these amendments to be concerned about either. Legal advice confirms that the Air Services Act, as it is currently drafted, constrains Airservices Australia's business activities in a way that is not consistent with the intent of the act or the intent of government policy. The amendment would remove this constraint. The second stage of this process will be an independent review of the future governance of Airservices Australia.

I would like to join with my colleague the member for Herbert, the previous speaker on our side, in praising the work, the actions and the activities of the employees of Airservices Australia. As a former employee of that organisation, when it was the department of transport, I know how hard everybody within it works and how committed they are to aviation safety. On a recent committee trip to Brisbane we had the opportunity, through Airservices Australia, to look at the control tower at Brisbane and the terminal control unit. Every member of the committee was extremely impressed with what they saw and carried away some very good messages.

I was quite amazed to listen to the opposition transport spokesman make what I believe is a rather bizarre link between the activities of the Aviation Reform Group and possible future accidents in this country. I think it was very unnecessary to make the statement that he and his party would be watching and, if there was a serious accident in this country as a result of the actions of an enthusiastic amateur, it would be on our heads or the Deputy Prime Minister's head. I thought that was an extraordinary remark to make, and I draw his attention to the fact that the Aviation Reform Group is certainly not made up of enthusiastic amateurs.

I know there is a subset of that group, but generally the group contains: Ken Matthews, the secretary of the department; Air-Marshal Angus Houston; Dick Smith, a previous chairman of CASA; of course, the current chairman Ted Anson; and the chairman of Airservices Australia, John Forsyth. To call those people enthusiastic amateurs in any way is quite ridiculous. The most important things to note about the activities of the Aviation Reform Group are that CASA is involved every step of the way with every deliberation that it makes and the process is open, transparent and completely defensible. There are accidents on our roads and there are accidents in our skies; those are things we cannot avoid. For the opposition spokesman on transport to draw this link between a future possible accident and the way this government is implementing a sensible public policy which is being scrutinised every step of the way is, I believe, quite reprehensible. I commend the bill to the House.

Mr MURPHY (Lowe) (11.06 a.m.)—In making my contribution on the Civil Aviation Legislation Amendment Bill 2003 I would like to reinforce the comments by the member for Blaxland in his contribution to the debate a few moments ago. I have no doubt that the government can potentially see Bankstown Airport as an overflow airport. We all know that the Southern Cross Consortium paid far too much money—it paid $5.6 billion—for Sydney airport. Against that background, obviously under the stewardship of Mr Max 'the Axe' Moore-Wilton, Sydney airport is going to be allowed to expand in order to return to the stakeholders the profit that they anticipated when they paid such a vast amount of money for the airport. This has dire consequences for the people that I represent and the people that the member for Blaxland represents, because it ensures that air traffic movements grow in Sydney. Potentially, Sydney airport will operate for 17 hours per day, with an 80 movement per hour cap. If you multiply that by 365 days, you will get 496,400 movements per year at Sydney airport. With the growth in air traffic movements and with larger aeroplanes, that is disastrous from an environmental angle for the people of Sydney.

I want to bring to the attention of the parliament this morning the comments in the supplementary explanatory memorandum circulated by the Minister for Transport and Regional Services. The explanatory memorandum states that the purpose of the government amendments to this bill is to amend the Air Services Act 1995 and to expand the scope of Airservices Australia's statutory functions so it may pursue additional commercial opportunities overseas and in Australia. What is the significance of this bill for the residents of Sydney? What is the significance of this bill for the public interest? In light of the government's demonstrated conduct as it relates to the residents of Sydney, do the Sydney Airport Corporation Ltd, Southern Cross Consortium—the Sydney airport lessee company—and Airservices Australia have any regard for the public interest? Do they have any regard for the people of Sydney who are copping interminable noise for the sake of the Southern Cross Consortium's endless selfishness and lust for financial profits?

The original explanatory memorandum for this bill provides a very technical legal analysis of prevailing legislation governing the regulatory regime of civil aviation in Australia. The purpose of this amendment is to remove provisions considered redundant by virtue of either the legislative provisions being duplicated or the provisions having been overrun by subsequent legislation and, ultimately, economic imperatives. These details are far too technical to go into in the parliament today and for me to do justice to them in the time that I have been allocated to speak on this bill.

However, it is safe to say that the purpose of the bill is to bring civil aviation management into line with international standards, including the provisions of the Chicago convention and the requirements of the International Civil Aviation Organisation. All this is in the name of efficiency and, ultimately, the marketing potential to sell Airservices Australia to offshore purchasers of civil aviation services. Again, the motivation is profit first and the people of Sydney second. Again, the tired, same old mantra of the utilitarian ethic, which I keep talking about in this parliament, runs paramount in the blinkered mindset of this government at the expense of the public interest, the environmental impact and the logical consequence of this bill.

Two things come to light that I ask the House to think about when considering the bill: firstly, clean up your own backyard first; and, secondly, actions, not words, are the true test. I now ask: what is the hidden agenda behind this bill? Let us examine some of the facts. It is estimated that the total world market for Airservices Australia's capability is in the order of $2.3 billion. It is further understood that Airservices Australia's technological capacity, work force skills and efficiency are reported to be amongst the world's best. I put to the House a very sobering point which was made by none other than Mr Pat Barrett AM, the Auditor-General of Australia. In the follow-up audit of the Civil Aviation Safety Authority it was noted—and the *Bills Digest No. 147* of 2002-03 also notes—that there was 'general compliance with its 1999 audit recommendations'. Airservices Australia likes to receive a pat on the back for the things it does well, and it does many things well. It also wants to parade itself when it gets the ticked box for cleanliness.

What makes Airservices Australia such a valuable entity? Like any company, one would look at its core business and ask whether the company is performing well. If you were a prospective investor in a company, you would want to know whether the company was actually performing and not just ticking the boxes. I would like at this point to raise the issue of corporate performance. I cite Mr Barrett in his keynote address 'Achieving best practice—corporate governance in the public sector', which he gave in Adelaide in 2001. In his address Mr Barrett spoke on the nexus between conformance and performance, citing 'three major Australian corporate boards' which regularly challenged the 'obsession' with conformance rather than performance and their previous position to be risk averse. Mr Barrett said:

> ... there's just been too much concentration in recent times on the conformance, the governance, the ticking of boxes, who comes to meetings and I think it's far from clear that that adds value, improves the performance of companies, delivers benefits for shareholders ...

How can we measure the performance of Airservices Australia? If we were to assess the value of a commercial company then it would be prudent to look at two major assets: its work in progress, which is a tangible asset, and its goodwill, which is an intangible asset. What is Airservices Australia's work in progress? Airservices Australia has many functions, not the least

of which is its statutory obligations to implement the long-term operating plan for Sydney airport, which is a ministerial direction under section 16 of the Air Services Act 1995.

I have been asking a staggering number of questions of the Minister for Transport and Regional Services about the real performance standards of Airservices Australia, particularly as they relate to the long-term operating plan. The bottom line, in commercial terms, with regard to Airservices Australia's performance—or lack thereof—in this matter is that they have systematically failed to meet their long-term operating plan in regard to air traffic movement targets to the north of Sydney airport. Not once in the entire history of the plan have Airservices Australia been able to achieve the 17 per cent target that was promised to the people of Sydney before the 1996 election with regard to fair and equitable noise distribution. Under the long-term operating plan for Sydney airport, the target for the north—I say for the umpteenth time in this House—is 17 per cent. But the May 2003 statistics show that it is running at close to 30 per cent, which is fast approaching 100 per cent more noise than the people of Sydney, particularly my constituents in Lowe, were promised.

I reject and I repudiate the minister's claim to me, in the innumerable questions that I have asked of him in this chamber and on notice, that the long-term operating plan has been substantially implemented. As it relates to the people whom I represent, the plan is a dismal failure because the people I represent were promised only 17 per cent air traffic movements. It is all very well for the minister to look at each of the four quadrants and say that in regard to the east, the west and the south the target has substantially been implemented or that in some cases it has exceeded itself and provided less noise to the people who live in those three quadrants, but that is at the expense of the people whom I represent in Lowe—the people of the inner west. They have had a gutful of the horrendous noise, not to mention the concomitant environmental risks associated with dirty, loud, large aircraft flying over their homes and schools. Nothing changes.

Most galling of all, Mr Max Moore-Wilton leaves the comfort of his office in the Prime Minister's department to take up his new appointment to run Sydney airport—which is all about maximising the profit of the consortium which invested a ridiculous amount of money to have a monopoly. You can be sure that, as I stand here in the House today, it is full steam ahead with parallel runways so that we can achieve 496,400 air traffic movements under the existing law governing the operations of the airport, not to mention the potential for an overflow airport to be developed at Bankstown, in the electorate of the member for Blaxland. That will be a catastrophe for the people of Sydney.

I must raise again that the government have shelved their commitment to provide a second airport for the people of Sydney. The consequences of that are going to be visited on the people of Sydney for many years to come. It was never the intention of the government to provide a second airport for the people of Sydney. It is a monumental betrayal of the promise that was given to the people of Sydney before the 1996 election that the government would do something about this very important issue for the people of Sydney. We know the real agenda—the old agenda of looking after the rich and the powerful, which we are witnessing today in the House and in the Senate with the government's attempt to hand over democracy to Mr Packer and Mr Murdoch in the Broadcasting Services Amendment (Media Ownership) Bill 2002. It is very consistent. How can the government do that and slaughter the public interest, thinking they might get a short-term gain and have Murdoch, Packer and Fairfax bar-

racking for them at the next election? It is a very serious issue and it should be considered when it comes back to the House today.

The DEPUTY SPEAKER (Hon. B.C. Scott)—Order! The member for Lowe will bring his comments back to the bill before the Main Committee.

Mr MURPHY—I take your point, Mr Deputy Speaker, but that is a very serious public interest piece of legislation in the Senate at the moment. If Airservices Australia were a board of directors of a public company, they would be lynched for such abysmal failure. The minority shareholders would want their scalps and heads would be rolling—there is no doubt about it. Like HIH, Mr Barrett would be shaking his head in disgust at AA's failure to perform to their stakeholders' expectations. Yet, as Mr Barrett says in his speech, they are content to boast, along with the Minister for Transport and Regional Services, that the long-term operating plan has been substantially implemented. That is wrong, wrong, wrong! My constituents in Lowe know it and the people of the inner west who live north of Sydney airport know it all too well.

Upon what basis do they claim this substantial compliance? It is because they allege that they have ticked 29 out of the 31 boxes of the recommendations of the long-term operating plan for Sydney airport. It is too bad that the LTOP fails to meet its bottom line performance targets. It is like saying of a football game: we scored the least penalties, we suffered the least casualties, but we lost the game. In the corporate world there is only one figure that counts, and that is the bottom line. We all understand that. So let us talk about bottom line rationalism. Let us talk about the performance of Airservices Australia. As it impacts on my electorate, the performance is absolutely shocking. Airservices Australia do not perform. They are not worth two bob in my view if they cannot perform to—

Mr Slipper—Have you written to the minister?

Mr MURPHY—Parliamentary Secretary, I have lost count of the innumerable questions that I have asked the minister about this very topic. He is getting to the stage of exhaustion; he said in many of the recent replies that I have received that he has dealt with these matters exhaustively. But he is not telling the truth to the parliament, and I have made it clear in this chamber to him that, as the long-term operating plan relates to my constituents—

The DEPUTY SPEAKER—Order! Is the honourable member seeking to ask a question?

Mr Slipper—No, I am not, Mr Deputy Speaker. I am taking a point of order. It is not appropriate for the member for Lowe to accuse the Deputy Prime Minister of not telling the truth. I ask that he withdraw that statement.

The DEPUTY SPEAKER—The member for Lowe will withdraw that reflection on the Deputy Prime Minister.

Mr MURPHY—I strongly doubt the veracity of the claim by the Deputy Prime Minister and Minister for Transport and Regional Services that the long-term operating plan for Sydney airport has been substantially implemented, because it has not.

The DEPUTY SPEAKER—The member for Lowe will withdraw that reflection on the Deputy Prime Minister.

Mr MURPHY—I do not want to reflect adversely on the Deputy Prime Minister—

The DEPUTY SPEAKER—I am asking you to withdraw that remark.

Mr MURPHY—To facilitate the committee, I will withdraw that statement. I will say one positive thing about the minister, if it makes the parliamentary secretary feel a bit better. The minister does answer my questions, unlike the cheek that we suffer from the Treasurer, who is not too keen to answer questions that we put on the *Notice Paper* with regard to matters that fall within his purview. But at least the Deputy Prime Minister answers the questions, although the answers are a monumental triumph of obfuscation and do not address the issue that I have been campaigning on since I was elected to this House in October 1998. The people of my electorate were expected to get 17 per cent of air traffic movements to the north and they are fast approaching getting 100 per cent more movements than they were promised. The minister cannot hide behind a shroud and say, 'The long-term operating plan has been substantially implemented because others in Sydney are receiving less noise.' But they are getting less noise at the expense of the people of the inner west and people who live to the north of the airport. In that respect, the minister should be flogged.

This week I received an email which is relevant to this matter and relevant to Airservices Australia, SACL, DOTARS and the minister with respect to their meritocratic arrogance and elitist self-congratulation. Ms Janette Barros wrote an email to me. Ms Barros deserves a gold star for her crusade to protect the interests of the people of Sydney from the many very serious environmental risks associated with Sydney airport. In that email, with regard to the attitude of big corporations to the current Sydney airport master plan process, she says:

I am sick and tired of meaningless motherhood statements made by corporations who seek to socialise the costs of the negative impacts of their operations, in order to maximise financial profits for themselves. We have governments for a reason, and one of their jobs is to protect the public from cynical exploitation; however John Howard's government is riding shotgun for those who would exploit our citizens.

I could not agree more.

The corporations wish to parade themselves as captains of industry. In performance terms, Airservices Australia are just another HIH. They are so inflicted with insensibility that they cannot see how flawed they are in their failure to meet their statutory performance levels. It is said that HIH failed because its shareholders did not speak up when the warning signs were imminent. I will not be silenced on behalf of the stakeholders of my electorate of Lowe or Ms Barros's stakeholders, or indeed all Sydney basin residents, who are being ridden roughshod over by these corporates whose gloss is more surface paint than substance.

I strongly recommend that, before Airservices Australia considers selling its wares offshore, the minister should take up Ms Barros's challenge and have a proper master plan process assessed under certified world-class environmental management parameters as established by the environmental section of the Airports Council International Europe. The current master plan process under the Airports Act 1996 is a joke, and the Senate Rural and Regional Affairs and Transport References Committee's report on the inquiry into the development of the Brisbane Airport Corporation master plan is a damning indictment of the flawed statutory regime that is a mockery of true environmental management. In short, if the intention of this bill is that the minister pave the way for increased international competitiveness for Airservices Australia, the minister must also admit to exposing the spoilt brat, Airservices Australia, to full international standards of environmental accountability rather than persisting with this cynical mockery of environmental performance—*(Time expired)*

Mr Murphy—Can I seek leave to table this, because I have not finished my contribution?

The DEPUTY SPEAKER—Leave is not granted.

Mr Murphy interjecting—

The DEPUTY SPEAKER—Order! The member for Lowe will resume his seat.

Mr SLIPPER (Fisher—Parliamentary Secretary to the Minister for Finance and Administration) (11.27 a.m.)—I am summing up the debate on the Civil Aviation Legislation Amendment Bill 2003 at the request of the Deputy Prime Minister, who, because of another commitment, is unable to be here. I would not want the honourable member for Lowe to think that my refusal to consent to the tabling of the rest of his speech was anything personal; it just does not seem to be a tradition in this place that we table and incorporate speeches into the *Hansard*. I know it happens in some state parliaments but it does not seem to happen very often here. I just want to make the observation to the member for Lowe before he disappears that he certainly was able to say a lot of words in a very short space of time. I suppose it is very fortunate these days that we have an electronic means of recording the *Hansard* because, if a shorthand writer was trying to record the inarticulate words tumbling one upon the other that the member for Lowe uttered in the closing five minutes of his speech, we would not have an accurate *Hansard* to look at in the future.

The DEPUTY SPEAKER (Hon. B.C. Scott)—Order! Is the honourable member for Lowe seeking to ask a question?

Mr Murphy—Mr Deputy Speaker, I rise on a point of order. Everything I said was articulate.

The DEPUTY SPEAKER—Order! There is no point of order. The member for Lowe should know better.

Mr SLIPPER—Very briefly, I was saying that the member for Lowe was talking so quickly that it would have been impossible for a shorthand reporter—no matter how competent—to actually record every word uttered by the member. The amendments which will be made to the Civil Aviation Act 1988 by this bill—

Mr Brendan O'Connor interjecting—

Ms Gambaro—Mr Deputy Speaker, I rise on a point of order. I ask the member for Burke to withdraw that comment. It was insulting.

Mr Brendan O'Connor—I am not exactly sure what you are asking me to withdraw.

Ms Gambaro—The member referred to the parliamentary secretary as having 'a tiny brain'.

The DEPUTY SPEAKER—The member for Burke will withdraw that comment.

Mr Brendan O'Connor—If any offence was taken by the parliamentary secretary, then I withdraw.

Mr SLIPPER—I am quite certain that the member opposite who uttered such an obviously incorrect statement was clearly saying it in jest. I did not take it personally. I know that he did not genuinely mean what those words would ordinarily be read to mean. The amendments that will be made to the Civil Aviation Act 1988 through this bill will facilitate the ongoing review of civil aviation regulations and, through a series of other important changes, improve the legislative framework for aviation safety. These amendments will enhance safety

regulation and will also have positive flow-on effects to industry and the consumer. By aligning Australian aircraft maintenance requirements and terminology with international standards, this bill will allow the Civil Aviation Safety Authority to regulate not only the technical aspects of aircraft maintenance but also the control and management of aircraft maintenance by extending the requirement for information to include details on the person responsible for controlling airworthiness and maintenance. Included in these amendments is a change to the definition of 'Australian aircraft' that will not only align the definition with international law and practice but also mean that the provisions of the Civil Aviation Act 1988 and the regulations which currently apply to Australian aircraft will apply to all aircraft in Australian territory which are not either foreign registered aircraft or state aircraft.

The government has received representations from interested parties with regard to this amendment to the definition of 'Australian aircraft' and is keen to ensure all concerned that this amendment will in no way affect the exemptions that apply to sports and recreational aviation under the Civil Aviation Orders. The purpose of the amendment is to close a loophole that allows unregistered aircraft to operate unregulated. The amendment does not have the effect of requiring aircraft that are registered with sports aviation associations such as the Australian Ultralight Federation to be placed on the VH register of aircraft. Such aircraft will continue to be exempt from normal registration requirements as specified in the relevant Civil Aviation Orders. CASA has also advised that it will amend the relevant orders to ensure that the change in definition does not have unintended effects on sports aviation aircraft.

Mr Cameron Thompson interjecting—

Mr SLIPPER—I thank the member for Blair for his supportive interjection. The minister has previously said that sports aviation should not be unnecessarily restricted. This bill in no way conflicts with that statement.

Another important amendment to the Civil Aviation Act 1988 will give CASA the function of entering into so-called article 83bis agreements with the national airworthiness authorities of other countries. This function will allow CASA to overcome the difficulties involved in applying safety regulations to an aircraft registered in one country but operated in another. This amendment yields obvious savings in terms of a more efficient use of resources and may also yield actual savings in administration. By harmonising Australia's standards with international standards and allowing CASA to enter into article 83bis agreements, this bill should benefit the Australian aviation industry and the consumer in terms of increased economic opportunities and reduced costs. The amendments will also further improve the legislative framework by removing ambiguity and a redundant provision from the Airports Act 1996 and by aligning definitions with those that have been internationally agreed. Through the use of clear and consistent terminology, these changes will assist Australian aircraft operators in meeting national and international legislative requirements.

The government proposes to move an amendment to the bill when it is introduced into the Senate. This amendment will allow Airservices Australia to pursue additional commercial opportunities both overseas and in Australia while ensuring that, in providing services and facilities, Airservices Australia must give priority to providing services and facilities in relation to air navigation within Australian-administered airspace. I must say that I was a little concerned at the remarks made by the member for Lowe, who suggested that Airservices Australia ought not to carry out this important function because he believes that Airservices Aus-

tralia is not carrying out its functions within Australia. The government strongly support the fact that Airservices Australia is carrying out a very worthy and appropriate function in this country, and we strongly back the proposal to allow Airservices Australia to pursue additional commercial opportunities both overseas and in Australia.

I suspect that the remarks made by the member for Lowe conflict just a bit with the official position of the opposition insofar as the opposition is providing broad support for this bill. The remarks of the member for Lowe appear to indicate that he is at odds with the member for Batman, who is the official spokesman for the opposition in relation to this civil aviation bill. It is proposed to move the amendment to the bill when it is introduced in the Senate. This will mean that the bill is simply proposing to implement what was always the intention of the Airservices Act 1995, and there is no intention or scope in the amendments to change any other aspect of either Airservices Australia's governance or the domestic environment in which it operates. I hope this provides some comfort to the member for Lowe. I see he is nodding in agreement and that my remarks do provide him with some comfort.

Mr Murphy—Mr Deputy Speaker, I would like to ask the parliamentary secretary a question.

The DEPUTY SPEAKER (Mr Mossfield)—Parliamentary Secretary, will you allow a question?

Mr SLIPPER—Yes, I am happy to answer a question.

Mr Murphy—I would like to clarify with the parliamentary secretary whether he pays attention to what I said. When I was talking about Airservices Australia, I did give them a commercial but I also gave them a battering in relation to the long-term operating plan for Sydney airport. That is what I was talking about. My question or, rather, my statement is: I believe you are misrepresenting me.

Mr SLIPPER—It was a question, and my response to his question is that I am not misrepresenting him. The member for Batman supported today's approach in the bill for growth for Airservices Australia. He mentioned that this was contrary to the content of the Willoughby report, which the minister recently tabled, and he said that subject to seeing the amendments to the Air Services Act foreshadowed he would support the bill. I want to point out to the member for Batman that the amendments foreshadowed today do not go to issues of future governance of Airservices Australia. The Deputy Prime Minister tabled the Willoughby report in the interests of transparency and debate on the importance and benefits of airspace reform. The Deputy Prime Minister is awaiting a report from the Aviation Reform Group, which was appointed to advise on the implementation of the national airspace system and the Willoughby report. I have to say, on behalf of the Deputy Prime Minister, that we appreciate the show of support from the member for Batman.

The member for Herbert, who represents an area where there is a substantial number of aircraft movements, identified some of the opportunities concerning the maintenance of aircraft, particularly for Townsville. He likes to refer to that area as paradise, but I prefer to think of the Sunshine Coast—which I am privileged to represent—as being Australia's paradise. The bill does have a number of long-term benefits for personnel and organisations involved in aircraft maintenance and for our international trade in the industry by aligning Australian terminology and airworthiness documentation with those in the international market.

The member for Blaxland referred to the role of Airservices Australia in the future of Bankstown Airport within his electorate and to the matter of the sale of Sydney basin airports, particularly as it relates to Bankstown. I can understand why it would be important personally for the member for Bankstown to expound on these matters, but they are not actually relevant to this bill. He ought to contact the Minister for Transport and Regional Services if he wants to discuss these matters, because they are not dealt with in the Civil Aviation Legislation Amendment Bill 2003. The member for Blaxland referred to an amendment to the Air Services Act and to the question of the impact on safety of airspace reform. This amendment will not impact on safety of aviation in Australia, as any overseas activities will be secondary to Airservices' obligations to ensure safe air navigation in Australian administered airspace. That is a matter of which the member for Lowe also ought to take note.

The member for Farrer referred to a number of matters in a very well thought out speech. The member for Farrer referred to the ANAO report following the audit taken in 1999, indicating general compliance of CASA with recommendations from the 1999 audit report. The provisions of the bill relating to CASA's functions and activities will assist it to continue to make our skies safe, and I am confident that future audits of CASA will demonstrate the benefits of this bill.

The member for Farrer also made a very correct statement referring to the high quality of Airservices Australia's service and personnel and the professionalism of the Aviation Reform Group. On behalf of the Deputy Prime Minister, I would like to thank the member for Farrer for her remarks. She would be more aware of these matters than most, because she is actually a qualified pilot. She certainly would have experience with Airservices Australia. The member for Farrer also pointed out that the amendment foreshadowed does not go to issues of the future governance of Airservices. I want to emphasise the point that the foreshadowed amendment does not go to the future governance of Airservices. I support the member's view of the professionalism of airspace management in Australia. That is a point I made earlier in summing up.

The member for Lowe claimed that the amendment to the Air Services Act demonstrates that the primary purpose of Airservices is profit and not the public interest of the people of Sydney. That is a fairly extravagant statement. I can see that he is smiling at his own extravagance. That statement is something that we do not accept. I support, rather, the view of the member for Batman, the opposition spokesman in relation to the matter, who seems to have a much greater understanding of these issues than my friend the member for Lowe. The member for Batman agrees that the foreshadowed amendment is in the national interest. The member for Lowe suggests that the foreshadowed amendment shows that the purpose of Airservices is profit. It is unfortunate that the member for Lowe is so out of touch on this issue. The foreshadowed amendment will not change any of Airservices' obligations on environmental issues affecting Sydney. No doubt the member for Lowe will be pleased to receive that assurance from me on behalf of the government.

The member for Lowe also referred to Airservices' noise management for Sydney airport. He claimed that there was a failure to meet aircraft movement targets and the long-term operating plan due to financial demands of the Sydney airport consortium. Airservices has no link to the Sydney Airport Corporation and absolutely no interest in making money out of maximising aircraft movements over the electorate of Lowe. I know the member for Lowe will be

very happy to hear that. I just reiterate that: Airservices has no interest in making money out of maximising aircraft movements over the electorate of Lowe. Airspace management in Sydney, as stated by the member for Blaxland, is very complex. Airservices manages that complex airspace with remarkable efficiency and, I want to stress, safety. I suspect the member for Lowe would also concede that Airservices does manage safety very well.

This bill is an important step in implementing the government's program of reform and regulation of aviation. I am pleased to be able to commend the bill to the House.

Question agreed to.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

EXPORT CONTROL AMENDMENT BILL 2003

Second Reading

Debate resumed from 27 March, on motion by **Mr Truss**:

That this bill be now read a second time.

Mr FITZGIBBON (Hunter) (11.43 a.m.)—The Export Control Amendment Bill 2003 highlights the important ongoing role government has to play in overseeing and regulating corporate activity. It is very timely. Only last week, I raised in this place the issue of the closure of the Nardell coalmine in my electorate. In particular, on that occasion, I raised my concern about the role the Macquarie Bank had played in the mine's demise. In last Friday's *Australian Financial Review*, Macquarie Bank rejected the claims I made in this place last week and said that they have irrefutable proof that my claims were incorrect.

Today I call upon the bank to make that irrefutable proof available to me, to Nardell's unsecured creditors and to the unit holders in Macquarie Investment Trust III. I pose this question: why would any of us, including investors in MIT III, take Macquarie Bank's word at face value? In uncontested evidence given before the New South Wales Industrial Commission, it was submitted that the bank's senior executive, Mr Andrew Downe, once told a colleague:

Not everything gets booked into Macquarie's system.

The same Andrew Downe, in the same conversation, said of a colleague in Macquarie Bank:

Mark Forde's attitude worries me. He has a hang-up with moral responsibility.

This is the bank that asks us to take its comments relating to irrefutable evidence on face value. Today I call upon it to make that irrefutable proof available to me, Nardell's unsecured creditors, who collectively—

Ms Worth—Mr Deputy Speaker, I raise a point of order. I was wondering whether my colleague is aware of what bill we are debating. I have not recognised any reference to it at this stage. He may have been confused.

The DEPUTY SPEAKER (Mr Mossfield)—I will call the member again. The bill is for an act to amend the Export Control Act 1982 and for related purposes. I ask the member to refer to the bill in his contribution.

Mr FITZGIBBON—I note the point of order. I was simply making the point that in many ways this bill does not go to corporate responsibility. The example I just gave underpins the

need for government to play a very strong hand in regulating that activity. Today I call on the Treasurer to exercise his power under section 14 of the ASIC Act and direct ASIC to take a very serious look at Macquarie's activities—

Ms Gambaro—Mr Deputy Speaker, I raise a point of order. This has nothing to do with ASIC. It relates to an export control amendment.

The DEPUTY SPEAKER—I ask the member to link what he is saying to the bill that we are debating.

Mr FITZGIBBON—I will indeed. This is a bill that goes very much to our export markets. Nardell Coal was exporting coal. That was the very basis of the operation of the mine. I will close on this point. I express my great disappointment that the Parliamentary Secretary to the Treasurer has written to me suggesting that the Treasurer has no power to direct ASIC under section 12 of the Australian Securities and Investments Commission Act—

Ms Gambaro—Mr Deputy Speaker, I raise a point of order. The member is really straying beyond the topic. He is clearly not speaking to the bill. I have raised this point of order once before. I ask you to bring him back to the matter of the bill which we have before us. We are all waiting to hear from him with regard to the content of that bill.

The DEPUTY SPEAKER—Once again, I draw the attention of members to the title of the bill, 'A Bill for an Act to amend the Export Control Act 1982, and for related purposes'. I ask all speakers to direct their remarks to that bill.

Mr FITZGIBBON—I will indeed, Mr Deputy Speaker. In doing so, I just make the point that I believe section 14 of the ASIC Act takes precedence over section 12. The purpose of the bill before the House specifically is to amend the Export Control Act 1982. It attempts to do so in two ways. The first is a redraft of part of subsection 11Q(5) as a consequence of the repeal of section 16 of the act by the Criminal Code. The second—

Ms Gambaro—Mr Deputy Speaker, I raise a point of order. There is nothing relating to the bill that deals with section 14, ASIC and the Criminal Code. I ask you to bring the member back to the bill. From my understanding, we have not reached today's adjournment debate. I ask that the member be brought back to the topic of the bill.

The DEPUTY SPEAKER—For guidance, the Export Control Amendment Bill says in part:

Section 16 of the Act created an offence of making a false or misleading statement in declarations furnished for the purposes of the regulations. This offence was repealed and replaced by offences in the *Criminal Code by the Criminal Code Amendment (Theft, Fraud. Bribery and Related Offences) Act 2000*.

It is a fairly broad act. I call upon the member to speak and I ask him to speak to the bill.

Mr FITZGIBBON—I will, indeed, Mr Deputy Speaker. Like the Treasurer, the member for Petrie obviously does not understand the bill before the House today. Either the Treasurer does not understand the ASIC Act over which he has control or it just suits him not to understand the acts over which he has control.

Before I was interrupted, I was about to make the second point about what the bill before the House seeks to do: the bill attempts to amend section 23 to allow certificates issued in relation to goods for export to describe goods that originate from Christmas Island or from the Cocos Islands as goods from those territories. Our market access depends on our disease-free

status and the fact that, when people overseas buy Australian, they know—or at least they did know—what they are getting. That is very important. The inability of the Minister for Agriculture, Fisheries and Forestry to manage this key area of his portfolio is of concern to us all and should be a wakeup call to all those in government. The amendment seeks to preserve trade benefits that arise from Australia's unique pest- and disease-free status. It is something that Labor takes very seriously. On that basis, we are happy to support the bill.

Mr CAMERON THOMPSON (Blair) (11.51 a.m.)—I rise to speak in the second reading debate on the Export Control Amendment Bill 2003.We are debating here the amendments to the Export Control Act 1982. The member for Hunter referred in his remarks to section 14 of the Criminal Code. I would like to point out to you, Mr Deputy Speaker, that the only sections of the Criminal Code relevant to this bill are sections 137.1 and 137.2. This bill has zero to do with section 14 of the Criminal Code. The member for Hunter specialises in pulling the legs of various speakers, and he has done it again in relation to this matter. Unlike the member for Hunter, I want to deal with this very important bill effectively. I will not try to use it as an excuse to get something in *Hansard*, which is what the member for Hunter was doing.

We are talking here about the export inspection of prescribed goods: meat, fish, fresh fruit and vegetables, dairy products and grains. These are products that are very important to Australia. They are very important to my electorate of Blair, where we are very reliant on our production of these types of goods. So it is important that we have adequate quarantine and export control arrangements in relation to these products. Under the Export Control Act 1982, responsibility for maintaining this effective export control rests with AQIS. In relation to their wider quarantine duties, I notice that AQIS have very effective 'crocodile hunter' ads on TV. As a result, I think that awareness of quarantine issues is very high. That is something which—along with the heightened awareness and concern people have at the moment about security and about protecting our national assets—is very important. Those ads go a long way to helping promote it.

When it comes to the question of export controls, AQIS is responsible for determining whether goods are fit for consumption, whether their quality is acceptable and whether they are accurately described. The statistics show that the food industry represents 22 per cent of sales of Australian products overseas and that, in the 2001-02 year, food exports were worth something like $26 billion. That is what is at stake. So it is important that there are effective controls and that we are very specific in our descriptions of products, including descriptions of quality and source.

The reason for this amendment to the Export Control Act 1982 is basically the development of export related operations in Australian territories, particularly in the case of the Cocos (Keeling) Islands and Christmas Island territories. Some efforts have been made there to farm giant clams and black-lip pearl oysters. Also, the local co-op on Cocos Island is looking at tuna breeding. Those kinds of pursuits can lead to their developing effective export opportunities. I would urge them to continue down that track, because export markets are very lucrative, and the islands have some unique opportunities to exploit their local environment and produce unique products that they can sell on export markets.

They clearly want to benefit from those unique circumstances, but when they go into the marketplace they also would like to benefit by being able to say, 'We've got an effective quality control regime. We've got an effective description of our products. The quality is accept-

able, and these goods are fit for consumption.' They are seeking the endorsement of AQIS for those types of products and to have their products described within the Australian system. It is not appropriate for products coming out of those territories to be linked wholly and solely with products of Australia, which is what they would have to be described as under the existing regime. The purpose of this bill is to be specific and to give the territories the opportunity to say where their goods originate from and for AQIS to be able to verify that as part of the process. In proceeding in this way, the government wants to align wherever possible the legislation and programs that apply in territories such as Cocos (Keeling) Islands and Christmas Island with those in mainland Australia. The amendment in this bill to section 23 seeks to follow that pursuit and to put it into place.

The people on the islands are looking to receive the best of both worlds: they can have their own identity and can stamp their products as being products of Cocos (Keeling) Islands or of Christmas Island, but they also get the overarching credibility of AQIS and our system to endorse the products. So I think the bill we are talking about is an entirely positive bill. It will be very good for the territories.

However, you do have to note the issue regarding pest and disease status. If we set about changing the pest and disease status of the territories, that would have environmental implications and would also impact upon the lifestyle of the islanders. One ingredient I should mention in this pursuit is the fact that those islands do not have the same disease status as the rest of Australia. In many respects, they are exposed to pests that are different from those in the rest of Australia. When producers in the rest of the country are exporting their product, they do so under certain set parameters in the export and quarantine agreements that we have with other countries. To include these separate islands as being part of that would be a misrepresentation, because it would misrepresent the potential threat and the potential types of diseases that are found there, so it is not possible realistically to lump them together. A suitable description of proceeding down that path would be to say that the tail was wagging the dog. It is appropriate, however, that these islands be recognised within the legislation and that they be able to mark their product as being 'Product of the Australian territory of Christmas Island' or 'Product of the Australian territory of the Cocos (Keeling) Islands'. It is a great outcome for them, for AQIS and for producers and farmers in the rest of Australia.

This brings one question to mind, however, to which I will be seeking some sort of response in the summing up on the bill: what happens in relation to the potential for exports from other Australian territories? I would like to highlight Norfolk Island as an example. Norfolk Island also has a fairly different kind of environment from that of the rest of Australia, and it will have opportunities to develop products of its own. While Norfolk has a greater degree of independence than those other islands, that independence tends to focus more on state-level functions, and we are talking about a Commonwealth function and the issue of export control measures and quarantine.

Perhaps we should include in this bill not just Christmas Island and the Cocos (Keeling) Islands but also the potential to recognise Norfolk as a source of exports of a unique type. It may be appropriate for Norfolk to have this separate status, although I must admit I am not aware of its quarantine status. It may be that Norfolk is treated equally with the rest of Australia when it comes to quarantine issues; therefore it may not be necessary to highlight it as a

separate case. That is an issue for the authorities to ponder, and I hope they will come back to me on it.

I would also like to address the part of the bill which deals with the Criminal Code (Theft, Fraud, Bribery and Related Offences) Act 2000. This naturally attracted the member for Hunter but, unfortunately, he spoke about the wrong section altogether. The amendment in 2000 omitted to remove reference to section 16 from section 11Q(5) of the Export Control Act 1982. We now have changes which replace references to the relevant offences with words directed to section 137.1 and 137.2 of the Criminal Code.

My question in relation to Norfolk Island is one of the main reasons for my contribution to the debate on the bill today. The legislation is recognition of the government's willingness to focus on the individual needs of these remote territories. This bill focuses specifically on those concerns and articulates the aspirations of people from Christmas Island and Cocos (Keeling) Islands. These people have an opportunity to develop export markets. One of the good things about this bill is that it facilitates that export development in a way that is entirely sensitive to the needs of these people and also to the needs of Australian primary producers and the people in our existing export markets. I commend the bill to the House.

Ms WORTH (Adelaide—Parliamentary Secretary to the Minister for Health and Ageing) (12.04 p.m.)—On behalf of Minister Truss, who was unable to be in the Main Committee this morning to sum up on the Export Control Amendment Bill 2003, I thank the member for Hunter and the member for Blair for their contributions. I thought the member for Blair provided a very good example, which perhaps the member for Hunter should take note of. The member for Blair thoroughly researched the legislation and did himself credit in the way in which he spoke to this legislation.

I can inform the member for Blair that this bill does not extend to the territory of Norfolk Island, but I am sure the officials who are sitting behind me this morning will take note of what he has asked and will look into it further. Having been there as a tourist some time before coming into parliament, I think there is no doubt about the fact that their main export is in tourism, and they do it very well indeed. They have a unique system of government, which we would need to take account of in any amendments we made to our own legislation.

Perhaps I should say a few things for the benefit of the member for Hunter, to tell him what this bill is really all about. As I said, the member for Blair showed him up. This bill will amend the Export Control Act 1982 to allow certificates issued in relation to goods for export to describe goods that originate from Christmas Island or from the Cocos (Keeling) Islands—known as the territories—as goods from those territories. It will also redraft part of subsection 11Q(5) as a consequence of the repeal of section 16 of the act by the Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000.

The amendment proposed by this bill to section 23 of the act will introduce certification arrangements that will pave the way for the extension of the act of the territories by regulation under section 4A of the act. Extending the act to the territories is in accordance with the government's policy to align the legislation and programs in the territories whenever possible with those of mainland Australia. Importantly, the amendments take into account the significant differences in the pest and disease status between the territories and the rest of Australia by ensuring that, once the act is extended to the territories, certificates issued in relation to goods for export will be able to identify whether the goods are exports from the territories or

from the rest of Australia. The amendment to section 11Q of the act will remove a reference to a repealed offence provision and replace it with a reference to the relevant offence provisions in the Criminal Code. I commend the bill to the chamber.

Question agreed to.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

COMMITTEES

Employment and Workplace Relations Committee

Report

Debate resumed from 2 June, on motion by **Mrs De-Anne Kelly**:

That the House take note of the paper.

Mr WILKIE (Swan) (12.07 p.m.)—I rise to speak on the report *Back on the job: report on the inquiry into aspects of Australian workers' compensation schemes*, tabled by the House of Representatives Standing Committee on Employment and Workplace Relations recently. I wish to start by thanking and offering my congratulations to the committee secretariat, headed by Richard Selth, in their support and development of the inquiry and this report. I would also like to thank the chair, the member for Dawson, Mrs De-Anne Kelly, for conducting the inquiry and the committee's proceedings in a professional and parliamentary manner, despite being under enormous pressure from the Minister for Employment and Workplace Relations. This inquiry could have been a golden opportunity to look into and improve the workers compensation industry for all involved. Instead, the minister's motive and obsession to batter employees had the potential to derail it completely. This is reflected in his original terms of reference.

On June 2002 the minister asked the committee to inquire into and report on matters that are relevant and incidental to Australia's workers compensation schemes in respect of the incidence and costs of fraudulent claims and fraudulent conduct by employees and employers, and any structural factors that may encourage such behaviour; the methods used and the costs incurred by workers compensation schemes to detect and eliminate fraudulent claims; the failure of employers to pay the required workers compensation premiums or otherwise fail to comply with their obligations; the factors that lead to different safety records and claims profiles from industry to industry; and the adequacy, appropriateness and practicability of rehabilitation programs and their benefits. These terms of reference are clearly directed at blaming employees and accusing them of fraud.

It is probably timely to make an observation about procedure. Committees are not part of the executive of government and are not there to be toyed with by ministers or used to push a particular minister's bias and prejudices. Parliamentary committees are essential and unique forums that enable the parliament—not the executive—to inquire into matters of current importance. The executive has the entire Public Service bureaucracy at its disposal to do that. I believe that the independence and authority of the parliamentary committee system must be protected to ensure that it retains the important role of being bipartisan rather than politically biased. This report fortunately, in spite of its original mandate to punish workers, makes a number of significant findings and recommendations. These findings and recommendations were made possible because of the professionalism of the members of the secretariat and the

dedicated work of the committee. Unfortunately, the Minister for Employment and Workplace Relations did not exhibit the same professionalism. As the member for Brisbane said, the minister:

> ... sought to railroad the inquiry into a partisan political witch-hunt of workers that was totally improper, leading Labor members to issue a rare, if not unprecedented, press release entitled 'Abbott wrecks parliamentary committee'. Unlike most members of the parliament, Minister Abbott has not worked out when to behave like a parliamentarian and when to be a politically partisan head kicker.

It is universally accepted that all workers are entitled to workers compensation for work related injury and disease. Therefore, I believe it is important that the coverage and benefits available to injured workers in Australia should be similar across industries and jurisdictions. It was shown in the report that unfortunately there are inconsistencies in the definitions and entitlements in relation to workers compensation. This in turn leads to confusion and misinterpretation. This problem is compounded for employers and employees who operate in more than one jurisdiction or state. Throughout the inquiry, the people giving evidence frequently raised the need for national consistency in the operation of workers compensation schemes whilst giving the states the flexibility to have their own arrangements.

One of the many things that was obvious throughout the inquiry was that there were a few issues of interpretation that need to be cleared up and some agreement and consistency reached on the meaning of the various words and issues—including fraud—and the various types of fraud applicable to the workers compensation industry, injury and the employer-worker relationship. The inquiry was told that opportunity for confusion and avenues for fraud due to the complexity and inconsistencies in the legislative framework were ever present. The definition of fraud, as applied by the Department of Employment and Workplace Relations, is as follows:

- any deceitful or dishonest conduct, involving acts or omissions or the making of false statements orally or in writing, with the object of obtaining money or other benefit from, or evading a liability. In general terms, fraud is the use of deceit to obtain an advantage or avoid an obligation; or
- any intentionally dishonest act or omission done with the purpose of deceiving. Fraud can be committed by workers, employers, lawyers, service providers like medical and health practitioners and interpreters; or
- an intentional act or series of acts resulting in payments or benefits to a person or entity that is not entitled to receive those payments or benefits.

And, more generally, fraud can include:

- ... deceit, trickery, sharp practice, or breach of confidence, by which it is sought to gain some unfair or dishonest advantage ...

I find it interesting, given the definition of fraud and the drive of the Minister for Employment and Workplace Relations to blame workers and accuse them of fraud, that the available figures do not reflect a fraudulent society. The figures show that injured Australian workers are not obsessed by defrauding employers or insurers; they are just people who go about doing an honest day's work for a day's wage and unfortunately get sick or injured in the process of doing so. The figures shown to this committee indicate that the incidence of fraud is low. Comcare, for example, manage approximately 18,000 claims a year and, of those, 23 were subject to investigation last year, as were a similar number the year before. I must stress that they investigated that number; it is not that they found that number of frauds proven.

The Australian Plaintiff Lawyers Association pointed out that all official inquiries over the last two decades had been unable to identify cogent evidence that there is widespread claimant fraud. The Queensland government stated that the incidence, and associated cost, of fraud was difficult to quantify but estimated it to be relatively low. The Western Australian government, the Injured Persons Action and Support Association and Mr Paul O'Halloran all concluded that the incidence of fraud in that jurisdiction is negligible. The ACT government also does not believe that fraud is widespread and is of the view that:

If there is a belief in the community that workers compensation fraud—

by employees—

is widespread, this may simply be due to a lack of awareness and understanding of the workers' compensation system, and sensationalist reporting in the media.

Before I get back to the issue of sensationalist media reporting, I point out that evidence that was presented to the committee suggested that employer fraud was far more prevalent than employee fraud. Originally, the minister did not want us to look into that. Employer fraud generally comes about when employers understate the number of employees they have in order to gain a benefit by paying lower insurance premiums. This is a very widespread practice and one that needs to be stamped out.

On the issue of sensationalist media reporting, does this mean that the minister is subject to being swayed by the sensationalist reporting of the media or is he just intent on battering employees? There are many other examples in the report of people who do not believe that employee fraud is endemic in the workers compensation industry. This brings me to the definition of employee fraud, which covers activities engaged in by an employee. In my opinion, the workers compensation schemes are adversarial. This is shown in the report, and it clearly needs to be addressed. Many of the issues raised in this inquiry reflect inadequate communication and alignment of expectations of the various participants. In all sectors, there is misinterpretation, misunderstanding and a lack of understanding of the process. Fortunately, given the outcomes in this report, the committee decided to adopt a wider interpretation of the terms of reference and has tabled what I believe to be a worthwhile contribution to the debate on workers compensation schemes in Australia. One of the most important parts of this contribution is a recognition that the presence of fraud, particularly workers fraud, whilst present within the workers compensation system, is low and that the cost to the Australian community as a result of this fraud, although significant, is also low by comparison.

It certainly raises questions in relation to the way insurance companies, in particular, deal with workers who have become ill or who have been injured in the lawful discharge of their work requirements and who subsequently have to become a part of the workers compensation system. It also raises questions in relation to the motives of the minister when he set down the terms of reference for this inquiry. Many of the issues raised in the inquiry showed poor communication and the unmet expectations of the various participants. Throughout, there is misinterpretation, misunderstanding and a lack of understanding by the parties to workers compensation of the process. Through the process, the committee reached the conclusion that most of what is perceived as fraud or fraudulent behaviour is the result of inefficiencies, incompetence, mismanagement, misinterpretation and/or a lack of understanding of the workers compensation process. I believe that the whole workers compensation procedure needs to be simplified, with greater communication between those involved. I further believe that greater

understanding, better communication and the removal of the adversarial nature of workers compensation claims, and of responses to those claims, may address many of the issues raised in this report.

I have talked a lot about the issues of people becoming ill or injured at work and the problems that can arise as a result of that illness or injury. What I have not mentioned so far is rehabilitation and the return-to-work aspect of workplace injury and sickness. The report shows that there is a decreasing return-to-work rate, and this is a disturbing trend that must also be addressed. I agree with the report that the implementation of nationally consistent rehabilitation and return-to-work practices would be advantageous. Hopefully, with a national system, the problem of injured workers falling through the gaps would be overcome. A national system would give benefits in relation to the consistency of administration and operation of schemes. I believe that recommendation 14 of the report supports this view when it says:

The committee recommends that the Commonwealth government support and facilitate where possible the development of a national framework to achieve greater national consistency in all aspects of the operation of workers' compensation schemes.

As I stated previously, in implementing that recommendation the need for the various states and territories to run their own schemes, within a national framework, should also be taken into consideration. It is also worth noting that evidence was presented to the committee that suggested that, where industries had sound occupational health and safety practices in place, the incidence of injury and therefore workers compensation was far lower than for those industries where they had poor occupational heath and safety practices in place. I commend the committee and the secretariat for their work, and I commend the report to the House.

Mr BEVIS (Brisbane) (12.19 p.m.)—I had the opportunity to make some brief comments when the report *Back on the job: report into aspects of Australian workers' compensation schemes* was tabled in the House of Representatives. I want to add briefly to some of those remarks and endorse the remarks just made by my colleague the member for Swan. The inquiry by the House of Representatives Standing Committee on Employment and Workplace Relations found that the incidence of worker fraud in the workers compensation system was incredibly low. Others have spoken about this and I made some brief comment on it, but I want to repeat the assessment made by the Chief Executive Officer of the Commonwealth's own organisation Comcare, Mr Leahy, in his evidence to the committee. He said that they undertook some 23 episodes of surveillance last year and that they undertook 22 in the year before that. That was out of 18,000 active claims. Out of 18,000 claims they had actively under review at any point in time, there were approximately 20 that caused them concern sufficient to warrant an investigation. That is a remarkably low level of improper claiming incidents, even if all of them were to be found to have been fraudulent. It is not surprising, therefore, that elsewhere in his evidence the Chief Executive Officer of Comcare, Mr Leahy, said:

In the totality of our scheme, fraud is not a very significant issue.

That was borne out by the evidence the committee received from many other participants in the system. I was somewhat alarmed after the tabling of the report to see the press coverage that some have given to the report—in particular, an interpretation that the committee has recommended a national workers compensation system. It has not. In fact, it deliberately did not recommend a national workers compensation system; it deliberately did not propose that the states hand over to the Commonwealth their existing operation of workers compensation. In-

deed, it did not even recommend that the Commonwealth should enter into discussions to achieve that end. What it did was to identify a number of areas where there is a good opportunity for the Commonwealth and the states and territories to have a greater degree of common approach both in the way in which claims are administered and in the regime of benefits that apply. If you look through the recommendations, you will see the clear difference in the approach, with terminology such as:

> The Committee recommends that the Minister for Employment and Workplace Relations request that the Workplace Relations Ministers' Council conduct a study …

It also said:

> The Committee recommends that the Minister for Employment and Workplace Relations request that the Workplace Relations Ministers' Council continue to work ...

They are recommendations 1 and 3. Recommendations 6, 8, 10 and 11 are in a similar vein and talk about the committee recommending that the minister work with the Workplace Relations Ministers Council. The clear intent of the committee is that the state and territory systems currently operating should continue to do so. They have a long history and quite varied backgrounds. It has to be said that that has produced a number of benefits; it has also produced some anomalies that we think it is time the state and Commonwealth governments tried to resolve.

I was also taken aback when the committee was in South Australia to receive evidence about the extent to which the adversarial system that the member for Swan referred to will motivate some people to spend an inordinate amount of money in arguing against a claim rather than in fixing the problem that the injured worker suffers. Paragraph 3.145 of the report notes the evidence of a Mr Kowalski, who actually provided documents to us confirming that his employer in South Australia had spent $239,166 on legal expenses in respect of his workers compensation claim. In addition to that, his employer had spent another $1,700 on investigations and another $46,000 on other expenses, yet had provided to that injured worker rehabilitation that cost only $35—an injured worker who, instead of receiving the rehabilitation and medical support that he needed, ended up having to confront an employer willing to spend more than a quarter of a million dollars to stop paying $35. This is an insane proposition, and it was startling to see that such an event could occur with a major employer in South Australia. That does raise one of the issues that the committee looked at: the interface between the role of lawyers in the field of workers compensation and the role of the workers compensation systems themselves.

As a Queenslander, I should also note—even though last night's State of Origin match did not quite go the way it was scripted—that the overwhelming evidence from the groups in Queensland was not only that employer and employee fraud was low, as had been the case in other jurisdictions, but also that premiums are in fact amongst the lowest in the country and the system seems to operate better than in other jurisdictions. It is interesting that Queensland maintains a state-run monopoly when it comes to these matters. One of the reasons advanced to us in evidence by WorkCover Queensland for the efficiencies they are able to obtain in that state—and for the low rates—is that they have a state-run monopoly. It would be worth while to have a closer examination of how Queensland has been able to provide a good workers compensation system at lower premiums—a system that is not the subject of regular concern

about its financial viability, as has been the case in some other states. There may be a lesson for us in that.

The only other issue I want to make reference to in the remaining couple of minutes is the problem picked up in one of the recommendations that deal with vertical integration in the industry. As some states have outsourced workers compensation to private companies, those same private companies have invested in the provision of not only the insurance service but also the rehabilitation services. There is then one company both insuring the injured worker and owning the physiotherapy or other rehabilitation service providers that are part and parcel of the workers compensation system. I am very concerned at the lack of transparency that system invites. When we construct the workers compensation system, whether it is outsourced to a private company or whether it is part of a state-run monopoly, it is important that at the core of the system is a concern to provide injured workers with the medical and rehabilitation support necessary to re-enter the work force in as gainful a capacity as they are able, having regard to their injuries. I do not think that goal is enhanced by cloaking the process behind a vertically integrated monopoly, which was the subject of evidence we received in a couple of the states where the committee took evidence. We have made some recommendations about that. I encourage the ministerial council to have a look at ensuring at least transparency in those activities, and to go beyond that and give some consideration to whether it is not in everybody's best interest to ensure that the providers of rehabilitation and medical services are at arm's length from the people who actually run the insurance industry within that state. Finally, I again commend my colleagues on the committee, who did a very fine job; the chair of the committee, the member for Dawson, who conducted affairs in a professional, parliamentary manner; and the secretariat of the committee for their support and advice during the inquiry.

Ms HALL (Shortland) (12.29 p.m.)—The House of Representatives Standing Committee on Employment and Workplace Relations report *Back on the job: report on the inquiry into aspects of Australian workers' compensation schemes* is the result of an inquiry into the incidence of workers compensation fraud. At the outset, I did not think I would be standing up in this place speaking to a unanimous report, but I join with the previous speaker, the member for Brisbane, in congratulating the chair of the committee and everyone within the committee for working towards achieving this outcome.

There was a lot of concern by members on this side of the House about the way in which the terms of reference were developed and about the approach to this inquiry by the minister. It really pains me to have to say that in this place, but I was very upset because I believe that the committee process within this parliament is probably one of the most valuable parts of the work that we as members of parliament do. In committees, we tend to look at issues very much in a nonpartisan way. Inquiries are set up so that we can get a good outcome, and we look at the issue from a very wide perspective. But, from the outset, this inquiry was set up to deliver one outcome: that the problem with workers compensation within Australia was the issue of workers compensation fraud and that it was causing enormous increases in the cost of assistance within various states and throughout the nation. But this inquiry restored my faith in the way the system works, because, regardless of the terms of reference, regardless of the way the inquiry was set up and regardless of the outcome that the minister was seeking, the inquiry delivered truth. What the inquiry delivered was a real picture of the workers compensation systems as they operate throughout Australia. The inquiry found that there was very

little fraud from workers and minimal fraud from employers. It found that the system was working but that there were areas in which it could be improved.

I would like to turn to the substance of the report and pick up on a couple of the issues that I thought were fairly important. Before doing that, I would just like to say that for many years I worked with workers who were involved in workers compensation. I worked with them within the rehabilitation process, trying to get them back to work and helping them find suitable employment. However, many artificial barriers were in place which prevented this happening. The sad thing is that I think most of those barriers are still in place, and there probably are a few more as well.

When the inquiry dealt with rehabilitation and the organisations that were providing rehabilitation, it found that there is a lack of transparency, that provisions for these organisations to overservice still remain and that sometimes the workers, the people who are injured—remembering that workers compensation is about injured workers and about getting them back to work—become cash cows. That is the thing that worries me about the whole system, and it became quite apparent in the inquiry—that workers were the cash cows. The insurance companies, the doctors, the lawyers and the rehabilitation providers are all in there trying to get their little bit out of the system, and, with everybody taking their little bit, the cost of the system is increased.

The report was very clear in stating that timely intervention, having the appropriate professionals work with a person, acknowledging that there is an injury and then working to get that person back to work ensure the best outcomes for the worker. An injured worker loses more than just their job. They lose their capacity in a number of areas of their life. Dealing with this issue, helping them to maximise their ability to find suitable employment and getting them back into the work force as quickly as possible ensure the best outcome for them. It is also the best outcome for the employer, because if a worker can get back to work it minimises the cost to the employer and to the insurance company.

Whilst I am talking about rehabilitation, it is important to mention vertical integration, wherein insurance companies are the rehabilitation provider. They provide the insurance and the back-to-work program—the rehabilitation—for the injured worker. I am concerned that in some cases the best interests of the worker may not always be taken into account. The insurance company providing the services can make money by minimising the time the injured person is deemed to be out of the work force. The adversarial nature of the workers compensation system does not in any way help the worker. The workers often feel that their only option is to obtain a payout, as opposed to short-term compensation and getting back to work. Employers are still very reluctant to employ somebody who has been injured—in their workplace or in another workplace—and there should be an education program to address this. The current system with the Job Network creates difficulties for an injured worker trying to get back to work. We need a system where all those involved can work together and share information, maximising the opportunity for injured workers to return to the work force. If different sectors compete against each other rather than work together, it limits the way the system works.

The evidence we received in the committee did not support the claim that there was widespread fraud. All evidence to that effect was hearsay. When I directly asked the National Farmers Federation whether fraud was a major concern for their organisation, they said it was

not. As we found in the report, much of the 'fraud' is perceived fraud, which relates to incompetencies and inefficiencies in the various schemes. There is a common belief that fraud exists, but when you look at the way the systems operate in every state throughout Australia you find that the incidence of fraud is minimal. To quote directly from the report:

> If the system operated more effectively and efficiently, with greater accountability, this perception would largely be eliminated—

that is, the perception that there is any fraudulent behaviour. The report continues:

> In most situations it was found that the level of employee fraud was minimal.

To put that in the context of what I said at the beginning of my speech, this inquiry was set up to prove that workers compensation fraud was endemic—that it was the greatest problem with the workers compensation system. In that context, and working to the report's terms of reference, we can see that workers compensation fraud is not a big issue. The section on fraud maintains that the definition of 'fraud' is subjective, that the system is highly adversarial and that the industry is very litigious. There is incompetence, mismanagement and inefficiency, which lead to the perception of fraud.

It is also very important to emphasise that when a person is injured they are exceedingly vulnerable. They are probably more vulnerable than they have ever been in their working life, and they are confronted with this complex and very bureaucratic system. The delays in the system and the difficulties they have in receiving financial support add to the stresses that they are experiencing at the time and make it more difficult for them to recover and return to work.

One area that was highlighted when the committee was taking evidence was the issue of doctors and their conflicting reports. This does a lot to undermine the confidence of the injured worker. Some injuries are very easy to identify, and in those situations there is not the same level of conflict, but there are many other workplace injuries which cannot be quite so easily defined. One of those areas is repetitive strain injury. We received evidence from one group that, because it is a soft tissue injury, it is much harder to diagnose and identify. The injured worker can be sent to one doctor and be given a clean bill of health and they can then go to another doctor and have considerable workplace restrictions put on them.

The adversarial nature of the workers compensation system and the fact that two types of doctors exist in the community do very little to help workers return to work. The most important thing we can do is identify that a worker does have a problem and then immediately have them involved in the rehabilitation process, with the goal of returning to work. This is something that the report recognises. It also recognises the importance of occupational health and safety within the workplace and the need to educate workers on the correct way to do things to ensure that the smallest possible number of injuries occur in the workplace. As I said at the beginning of my contribution, once a person has an injury it results in a loss of capacity, and a loss of capacity means that there are restrictions on what that person can do if they do not regain their full functionality. If we address the issue of occupational health and safety up-front, there will be fewer problems.

I join the previous speaker in saying that the committee did not recommend a national workers compensation system. We believe that the most important things are transparency and accountability by all parties. I recommend the report to the House and, in doing so, say that it

is an excellent report. As I said at the outset, the committee secretariat provided great support to the committee and helped us work through many of our differences.

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

ADJOURNMENT

Mr NEVILLE (Hinkler) (12.44 p.m.)—I move:

That the Main Committee do now adjourn.

Regional Partnerships Program

Mr SERCOMBE (Maribyrnong) (12.44 p.m.)—I understand that the government is launching today a program called Regional Partnerships. This is a program which, as I understand it, is designed to provide some Commonwealth government involvement in regional business initiatives and the like in areas with high rates of unemployment. I mention that today because an article in the Melbourne *Age* earlier this week reported that, in March this year, 12.2 per cent of workers living in Sunshine and St Albans in the western metropolitan region of Melbourne were jobless, making up five per cent of Melbourne's unemployed. The article goes on to say that nine per cent of Melbourne's work force live in the arc of suburbs from Altona through Keilor to Reservoir but that 20 per cent of those residents are unemployed. The areas of Sunshine and St Albans in my electorate have Victoria's highest rates of unemployment. The indications are that there may well, unfortunately, be worse to come.

The textile, clothing and footwear industry is a very important industry in the west of Melbourne. In the city of Brimbank, for example, some 2,500 residents work in that TCF sector. Similarly, in the city of Moonee Valley, a substantial number of residents are involved in that sector. Yet at this stage the indications are that the government may well adopt aspects of the Productivity Commission report on that industry and contribute further to high levels of unemployment.

It is worth noting that the western suburbs of Melbourne have, in some respects, outstanding infrastructure. They have a very good ring road in terms of supporting movements around the region and logistics. They are close to the port of Melbourne and Melbourne airport. They have excellent tertiary educational facilities, particularly the Victoria University, and a skilled multicultural work force. This ought to be an area where there is considerable scope for building partnerships involving the Commonwealth government in addressing the existing unsatisfactory levels of unemployment. The signs, however, from this government are not good.

The Regional Assistance Program that the Regional Partnerships Program is, as I understand it, designed to replace is really a bit of a rort as far as this federal government is concerned. A miserable $187,000 for the whole of the west of Melbourne was allocated notionally in this financial year. I compare that with the electorate of Wide Bay in Queensland where, over recent years, something approaching $13 million has been allocated for regional assistance programs. I wish only the best for the residents of Wide Bay. They could do with a better member of parliament but, apart from that, I wish them the best. There is simply an extraordinary inequality of treatment, particularly when the west of Melbourne has very high levels of ongoing unemployment.

The area consultative committee of the west is headed up by a very capable businesswoman, Christine McGregor, ably assisted by an executive officer, Michael Iaccorino, but if

they do not have the resources from the government they cannot do their job fully. There are many excellent projects that they could look at into the future to sustain and build on those regional strengths and business opportunities, thereby creating jobs in the region. For example, Australia Post is presently engaged in building a very large parcel-handling centre in Ardeer right on the ring road. That will create further opportunities to build on and strengthen the logistics industry and the delivery industries based in the region. There is a very vibrant small business sector, a very multicultural small business sector, which creates great opportunities for trade, tourism and the promotion of local shopping districts that are unlike those elsewhere in Australia. This is another outstanding opportunity for Regional Partnerships, provided the Commonwealth government is prepared to equitably fund and provide resources in areas of high unemployment.

The local council in Moonee Valley has a number of sites, locally known as the Coles and Reading sites, where it is very anxious to explore opportunities for office and business related land uses. There are great opportunities there if Regional Partnerships support is genuinely available from the Commonwealth government for areas of high unemployment. Similarly, the Essendon airport site, which was handed over recently under lease to private sector operators, has great opportunities for Regional Partnerships and jobs growth. But it needs the federal government to be equitable in the way it handles these matters. The government needs to be fair dinkum about addressing the needs of areas with the highest rates of unemployment, and in Victoria that is the western suburbs of Melbourne.

Petrie Electorate: Young Achievers

Ms GAMBARO (Petrie) (12.49 p.m.)—I am delighted to be speaking today about the success of some young achievers in the Petrie electorate. Each year the Australian Students Prize is announced to give national recognition to those who excel in secondary education, and in particular in senior secondary years. The Australian Students Prize is a Commonwealth initiative and the first prizes were awarded in 1990. Each year 500 prizes and medals are awarded nationally and each recipient receives $2,000. This year in Queensland, 101 young people were acknowledged for their dedication and achievement. To receive an award means that you are among the top 500 students in Australia and among the top 101 students who completed year 12 in 2002 in Queensland. It is a very important role of the Commonwealth to ensure Australia's education system gives all students the best opportunity to obtain skills and knowledge of a world class standard. The Australian Students Prize acknowledges the achievements of Australian students and their commitment to education by continuing to recognise their personal success.

I want to congratulate five of the recipients of the Australian Students Prize in the Petrie electorate. They include Loralie Parsonson of Mango Hill, who attended Mueller College; Liling Tan of Bridgeman Downs, who attended St Margaret's Anglican Girls School; Phoebe Thwaites of McDowall, who attended Kedron State High School; Brigette Veen of McDowall who attended St Rita's College; and Ju Wang of Chermside who attended Brisbane State High School. On behalf of the whole of the Petrie electorate I would like to congratulate these five young women on their outstanding achievement as winners in the 2002 Australian Students Prize. This is one of the first times I can recall that all the recipients in this electorate have been young women. Not only is this testimony to the increasing educational and employment opportunities for women; it also provides very good role models for other aspiring students.

I would like to also congratulate a local achiever from the Petrie electorate, Zachary Tung from Clontarf, on the Redcliffe Peninsula. Zachary was recently chosen as a member of the Queensland under-14 soccer team and will represent his state at the upcoming Friendship Games in Sydney next month. In April this year, Zachary captained the under-14s Brisbane North team at an Easter school holiday soccer competition. He not only scored six goals in the seven games his team played in; he followed that by laying a wreath at the Anzac Day parade in Redcliffe, on behalf of the Queensland Junior Soccer Federation. It was a very proud moment for him. When Zachary was selected to represent his state, he even found the time to send a thank you note to people who had sponsored him in his Easter festival. I was really touched by that. It was a delight to receive his letter and to hear of his great results and achievement. It shows that he has a positive commitment not only to his sport but also to the community and to his family. Congratulations Zachary, we are very proud of you and we wish you well at the Friendship Games in Sydney next month. As a member of the Queensland team, I know you will represent this state—even though we did not do too well in another ball game—and be an outstanding diplomat for Queensland.

I want to finish on another positive note. Last weekend a youth festival was held in Redcliffe in my electorate. The Xpression Festival was a three-day event and was packed with skate competitions, a fashion parade and workshop, live music and BMX displays. It was also very different because it was based on survey work done by 13 local young women as part of the Breaking the Unemployment Cycle initiative in conjunction with the local Redcliffe City Council. The project was also coordinated by the Women Re-entry to Work Association. From all reports, it was a huge success not only for the people who attended and the performers but also for those who wanted to motivate and inspire young people. They wanted to give to the youth of Redcliffe a festival that they actually wanted, so they undertook 15 weeks of paid work including survey work to determine the content of the festival. It is a true local success story not only for the 13 women who found work but also for the city of Redcliffe. I commend the 13 local women for their initiative and skill in organising the Xpression festival and for their determination to give something back to the youth of the local community.

Capricornia Electorate: Mount Morgan

International Justice for Cleaners Campaign

Ms LIVERMORE (Capricornia) (12.54 p.m.)—A federal electoral redistribution is currently under way in Queensland, and I rise today to make a plea on behalf of the people of Mount Morgan. As members would be aware, two of the criteria which must be considered in any redistribution are the community of interest that exists within the electorate, including economic, social and regional interests; and the means of communication and travel within a division. Mount Morgan is only 40 kilometres from Rockhampton but is currently in the neighbouring seat of Hinkler. I note that the member for Hinkler is in the chamber today, and in the comments that I now make I mean no disrespect to his representation.

There is no question that Mount Morgan shares a community of interest with Rockhampton, and its entire means of communication are with that city. The bonds between Rocky and Mount Morgan are strong and enduring. In fact, from the very beginning Rockhampton and Mount Morgan have been linked, and the people of these two communities have literally changed the world. The name of William Knox D'Arcy appears very early in the history of Mount Morgan, for it was he, together with two other Rockhampton businessmen, who in

1882 joined the Morgan brothers to develop the now famous Mount Morgan Mine. D'Arcy took his money from the Mount Morgan Mine and financed what became the Anglo-Persian Oil Company, which is now BP. Walter Hall and his wife turned the money that they won from Mount Morgan into the Walter and Eliza Hall Trust, which financed the internationally famous Walter and Eliza Hall Institute in Melbourne. Mount Morgan can also claim to be one of the original five communities to establish a branch of the Australian Labor Party in 1891.

The people of Mount Morgan are rightly proud of their place in history and of the town's long association with Rockhampton. I believe that the people of Mount Morgan want to be part of Capricornia. They want their federal representative to be based, as always, in Rockhampton—not, as it is today, in Bundaberg. My office in Rockhampton is the one that constituents from Mount Morgan come to with their problems, for the people understand that Rockhampton is where the links are and where the government services relevant to them are based. I ask the Electoral Commission to return Mount Morgan to its home in the electorate of Capricornia.

In the time remaining, I would like to add my voice to those of my Labor Party colleagues who have spoken in support of the campaign for justice for contract cleaners in this country. Workers in the contract cleaning industry are among the growing army of the working poor in this country. The increase in contracting out has made cleaning jobs insecure, short term and low paid. Seventy-eight per cent of cleaners are part time or casual employees. Worst of all, there is no security for cleaners when a contract expires. Typically, the new contractor wins the contract because theirs is the lowest tender. Labor costs account for over 90 per cent of the price of a cleaning contract, so competition between contractors focuses on cutting the number of workers or reducing their pay and conditions.

When contracts change, cleaners do not know whether they will keep their job or what conditions they will be working under. An example in my electorate is the case of Central Queensland University. A new cleaning company won the contract at CQU and immediately cut the number of cleaners employed there. Fifteen full-time equivalent jobs were slashed to 10. Of course, the size of the job has not changed—there are still 60,000 square metres of floor space to clean—so it means that the cleaners are doing 30 per cent more work for no extra money.

This is happening in the cleaning industry right around the world. Clients and contracting companies maximise their profits, while cleaners are exploited and increasingly marginalised. This trend is typified by the multinational chain of Westfield shopping centres, which has come to represent all that is wrong with the contract cleaning industry. That chain is the focus of efforts to improve the working conditions of cleaners.

Unions representing cleaners, like the LHMU in Australia and the SIEU in the United States, are campaigning to ensure that cleaners are fairly rewarded for the work that they do in keeping our offices and shopping centres clean, safe and hygienic. The Liquor, Hospitality and Miscellaneous Workers Union has a proud history of protecting the industrial rights and living standards of many of the lowest paid workers in our country. It is to be commended for taking up this fight for justice on behalf of the thousands and thousands of cleaners in this country.

Paterson Electorate: Paterson Citizens of the Year

Mr BALDWIN (Paterson) (12.59 p.m.)—Mr Deputy Speaker, as a member in this House you would agree with me that each and every member of parliament is fortunate to represent an electorate. Indeed, we are all passionate about and committed to our electorates, and each of us believes that our electorate is the best. I am fortunate also because of the people I have in my electorate. One chap, Ross Pressgrave, is a passionate man; he is passionate about his community like no other I have ever seen. For that passion and for his commitment to his community, Ross Pressgrave was awarded Paterson Citizen of the Year earlier this year for his work as chairman of the Forster-Tuncurry branch of Diabetes Australia. Ross gives of his time freely and generously. He gives his all in order to achieve outcomes for his community.

Recently, Ross put together a meeting with a chap called Adam Sherman, who is the manager of McDonald's in Forster, to sit down and have a chat. We sat there and spoke about young kids who are affected by diabetes, cancer and other serious and debilitating diseases and injuries. The idea was put forward to construct some holiday cabins for sick children in Forster. Forster is a prime tourism spot, so land right where the action is is very difficult to come by. We are fortunate that the Forster Beach Caravan Park overlooking Wallis Lake has an area that will hopefully be set aside for the construction of these four cabins. The caravan park is right at the gateway to the Great Lakes.

These cabins will provide sick children, who have a range of illnesses such as cancer or diabetes, with the opportunity to have a holiday with their family. This area is safe for swimming and fishing. It will provide a great opportunity for a relaxing holiday for these families at a very low cost. When you have sick children, the cost drain on a family can be exorbitant. People go without, and the first thing they will go without is recreational time or holidays with their children.

A team has been brought together including Ross Presgrave and Adam Sherman, and also Deputy Mayor Jan McWilliams, Councillor Vic Jeffrey and solicitor Lorrie Hagan. I am fortunate that they have asked me to be the patron. Over time I am sure that hundreds if not thousands of people will help put this project together. They are currently seeking approval through the Department of Land and Water Conservation to use this crown land. They are seeking approval and support from council, which I understand is being given. Finally, we will go to the community for financial support.

I reiterate that Ross and Adam have been the main drivers of this project. There is only one facility of this kind in Australia for diabetic children: Fiona's House in Batemans Bay. We are on the mid North Coast and we need to provide a facility for people in the north. There is a definite need for families and kids who may not be able to afford a holiday, due to health costs, to be given a break. They are going through enormous emotional, physical and financial strain. Ross's own grandson, who is now nine years of age, had cancer at a very early age. His mother also had cancer. These are the sorts of motivating factors that drive a person like Ross Presgrave to do what he does. He does this through the Diabetes Association—in particular, helping kids with diabetes.

Our community is now rallying behind this cause. There is another young chap, Aaron Moase, who, by sheer coincidence, became the young citizen of the year in Paterson this year. The independent evaluation committee that assessed these awards thought that what Aaron was doing in raising money for diabetes as a junior some 120 kilometres away was a great

effort. On 21 September this year Aaron Moase intends to hold a bicycle ride to raise more money and he has committed part of that money towards diabetes and Ronald McDonald House.

On 20 August this year the Juvenile Diabetes Research Foundation is coming to our parliament. Some 100 young children with type 1 diabetes and their carers will be coming here to meet politicians and give us a better understanding of the problems they have. They will be flown in by Qantas at no cost. The event will be sponsored by Medibank Private. We are all fortunate to have great electorates, but we are more fortunate to have within those electorates people committed to their communities who provide the support, determination and drive to achieve.

Scullin Electorate: Telecommunications

Scullin Electorate: WorkCover

Mr JENKINS (Scullin) (1.04 p.m.)—On the day that the Telstra (Transition to Full Private Ownership) Bill 2003 is being introduced into this parliament I wish to raise some concerns that I have about telecommunications and the provision of telecommunications in an electorate like Scullin. I was put onto a problem by a constituent in a new estate which is within 20 kilometres of the central business district—and, while I would call it regional, it is hardly remote.

This constituent wanted to get access to broadband services, but he had no access to optical fibre, because, for some mysterious reason, when the new subdivision was laid out none of the providers set down a cable network. He was then informed that one of the options open to him was ADSL using pair gains. The real problem there is that this type of technology fails if the person is more than 3½ kilometres from the exchange, which is so in the case of this subdivision. After I contacted the minister, I received a reply from his office on his behalf and it was suggested that the person could use satellite technology. Sorry, but we are talking about a place that, whilst on the urban fringe, is basically metropolitan Melbourne and is only 20 kilometres from the CBD. If a person is having these problems in trying to get access to this type of technology, there is something still drastically wrong with telecommunications.

Whilst there has quite rightly been emphasis on ensuring that regional, rural and remote Australia has its concerns covered in the way it is supplied with telecommunications, the job is not being properly done when there are anomalies such as this. The undertakings given and suggestions made by the minister were totally inadequate. They have not solved this constituent's problem. It is all right to talk about satellite technology, but in practice that type of technology is terribly prohibitive on an economic basis. These are the types of things that people want assurance on before they see any agreement to the full sale of Telstra. They want undertakings that our telcos—especially Telstra, as the premier telco—will be supplying basic services.

The second issue I want to raise today is the way WorkCover payments impact upon parenting allowance. A constituent was off work for a period of six weeks because of an injury that required surgery to her hand. This person is a single parent with responsibility for kids. She had a parenting payment of approximately $250 a fortnight and was working part time for 30 hours a week. When she went onto compensation because she needed the operation on her hand, the payment under WorkCover of 95 per cent of her wage was deducted from her parenting payment on a dollar-for-dollar basis and she lost the payment. Here we have a person

who was doing the right thing. She was trying to make sure that she was providing for her family, with assistance through the parenting payment. Then, through no fault of her own, she had an accident at the workplace which required rectification. She was off work for six weeks and WorkCover replaced 95 per cent of her wage, but because of the way in which our social security system deems that to be income replacement she was penalised.

This is a vastly different case from a lump sum payment leading to somebody leaving the work force. This was all about this person maintaining herself in the work force, and she and her family were put under great strain for the period she was under WorkCover, on the basis of the income test reducing her access to her benefit. I would hope that, when we are looking at the adequacy of payments and at the way we can assist families, we look at this as an issue. I put it to the parliament—and I hope the minister will pick it up—that this is different from the way somebody under a lengthy period of workers compensation with perhaps not much prospect of returning to work would be treated. This was a short-term arrangement. This person should have been encouraged by continuing to at least receive some of her parenting payment, which would have enabled her to cover the expenses of being a single parent and getting back into the work force.

Education and Training: Apprenticeships

Mr FARMER (Macarthur) (1.09 p.m.)—From 1990 to 1995 the number of apprentices and trainees employed in Australia fell from 172,000 to 135,000 young people. During this time, 35,000 apprenticeships disappeared for young Australians. Since coming to office in 1996, the Howard government has worked hard to improve on the number of trainees and apprentices—over 300,000 people are now training in apprenticeships. That is almost twice as many opportunities for the youth of our nation as there were. Locally, the federal government has also delivered for our youth. In my electorate of Macarthur, the number of male apprentices has risen by 43 per cent since 1995 and the number of female apprentices has risen by 102 per cent. That is an extra 452 places for young people in the Macarthur area alone—452 places that the Howard government has helped create.

Last Friday, 20 June, I had the pleasure of launching an important initiative for the benefit of youth in Macarthur. This event was organised by Richard Handing, the careers adviser at St Gregory's College in Campbelltown. It was titled the Macarthur Careers Expo and was held in Centennial Stadium. During the expo I was fortunate to launch the Macarthur Apprenticeships Recruitment Strategy, otherwise known as MARS. Also present at this launch were the metal industry, with Austool's Bob Lundie-Jenkins, Peter Donnelly Automotive and many more business leaders from the Macarthur area, who are deeply concerned about and interested in creating greater career opportunities for all young people in Macarthur. MARS is a cooperative venture consisting of members from AiG—the Australian Industry Group—TAFE Campbelltown, the VET in Schools committee and Macarthur Group companies.

The aim of the expo was to raise awareness among young people in years 10, 11 and 12 on how to obtain traineeships and apprenticeships with award-winning industries from Macarthur. These industries are scouting for talent and seeking recruits for placements. We need to recognise that there is a huge future in these fields, especially in Macarthur. It is important for parents and young people to be aware that there are apprenticeships out there and that university is not the only option to further a career. Not everybody wants to go to university. The pathway from apprentice to general manager is still a valid one, so long as it is supported by

further study. I was once an apprentice myself, and I am proud to support the achievements of local industry with all the young people in this country.

Information is available for these young people, showing the diverse areas where apprentices can develop their own business, marketing, management and teaching skills, and opportunities to travel overseas are also available. During the expo, young people were able to speak with current apprentices to find out more about how to get into these apprenticeships. They were able to hear about a wide range of jobs, ranging from motor mechanics through to positions with Coles Graduate University, Camden Council and PRD Real Estate.

Commencing in July and running through to August, MARS is planning a series of meetings for parents and students to see first-hand what is available in our area. Owners and their apprentices will lead these evenings, displaying what they have to offer to our youth. I strongly urge all parents to support the teenagers who are reaching out to apply for courses available through MARS. I encourage all people in my local area to get involved. It is predicted that over the next five to 10 years there will be a serious shortage of skilled workers in certain skilled industries. The metals industry is one such industry, and one that promotes apprenticeships and traineeships in our area. The average age of an industrial worker is presently 42. More effort is required to pursue the youth of today.

Question agreed to.

Main Committee adjourned at 1.14 p.m until Wednesday, 13 August 2003 at 9.40 a.m., in accordance with the resolution agreed to this sitting.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Immigration: Asylum Seekers

(Question No. 1538)

Mr Danby asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 3 March 2003:

(1) What are the procedures visitors must follow when delivering parcels to individual asylum seekers in detention.

(2) What can be delivered.

(3) When can items be delivered.

(4) What checks are performed on packages.

(5) Can visitors give packages directly to detainees; if not, why not.

(6) Who is responsible for ensuring a package is delivered to a detainee.

(7) Is it the case that until recently visitors could not leave packages for more than one detainee at a time; if so, (a) when was this policy changed, (b) why was this limit imposed and (c) why was the policy changed.

(8) What is the reason for this policy.

(9) Was it set by the Government or by a private security firm.

(10) Are there records on the number of packages delivered to detainees; if so, will he provide details.

Mr Ruddock—The answer to the honourable member's question is as follows:

(1) When delivering parcels to individual detainees in immigration detention, visitors will be required to leave their possessions in a locker provided, and to hand any packages, gifts or money for the detainee to the detention officer for recording, receipting and passing on to the detainees. There are two detention officers as witnesses to receipt money and valuables.

Approved articles that are handed to visits officers on behalf of detainees are receipted by two detention officers and the visitor. Money and/or small valuables are then placed in the detainee safe deposit box (for detainees held at an IRPC, Australian currency is placed in a trust account). Detainees can access both their safe deposit box and their trust account upon request.

As a condition of entry, visitors and packages may be required to pass through a metal detector. Should this not be possible, a hand held metal detector is used. The suitability of any items that set off the alarm is assessed as to whether they can be brought into the centre. If required, the items are recorded as being brought into the centre and also recorded when they are taken out of the centre. If a visitor fails to satisfy an officer that they are not carrying a banned item, entry to the centre can be refused.

A 'Conditions of Entry for Visitors' sign clearly describing conditions of entry and banned items is prominently displayed in each visit reception area. A person about to enter an immigration detention facility is given access to written information, which explains:

- The screening process;
- If he or she is requested to undergo a search, the legislative requirements for conducting a search;
- The process to be used for the search;
- The person's rights under law with regard to the search, such as the right of the person not to undergo screening;

- The power to retain items, the possession of which is unlawful under the Commonwealth or State law in which a detention facility is located.

(2) Persons entering an immigration detention facility can bring into a centre any article except those considered to be contraband. Items routinely delivered include reading material and foodstuff.

Contraband is any article within a centre or in the possession of any person within a centre, not authorised by the Centre Manager and may include but is not restricted to:

- Mobile telephones, handbags/wallets, cameras and radio cassettes with recording facility, canned food, glass bottles/plates and cups, cigarette lighters/matches, pornographic material, alcohol, illegal substances and items that could be used as weapons or to conceal weapons or illegal material.

Visitors wishing to bring items into the centre that they are unsure of, ie whether it is regarded as contraband, are advised to seek approval from Australasian Correctional Management (ACM), prior to bringing those items into a centre.

Detainees are also permitted to receive items from the community through the provision of mail services. ACM staff deliver mail to detainees and obtain a signature following clearance from DIMIA. Detainees are required to open mail in the presence of an ACM officer. The officer is to ensure that the mail does not contain contraband, money or any illegal substances. Items in mail are entered on the 'In Trust Property Card' or given as 'In Possession Property' and recorded on the individual detainee file.

Money and or valuables sent through the post are also placed in an individual safety deposit box for the detainee.

(3) Items may be delivered between normal business hours. Signage regarding visiting hours is displayed in a prominent position in the front reception area of each centre. These are published by the Centre Manager. A visitor may apply to seek approval from the Centre Manager to deliver items outside normal hours, prior to bringing those items into the facility. The Centre Manager may consult with the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) as to whether it is appropriate to allow the contact in the circumstances.

WOOMERA

- Visiting hours at the Centre are – Morning 0900 to 1200hrs and Afternoon 1330 to 1700hrs
- A visitor may apply to have contact with a detainee at any time and the Centre Manager will consider the reason.

PORT HEDLAND

- Visiting hours are 0900 to 1100 and 1400 to 1700
- The only contact outside of normal visiting hours is via telephone or mail.

VILLAWOOD

- Stage 1 – 1300 to 1600hrs
- Stage 2 and 3 – 1330 to 1900hrs
- For agents and lawyers, they can visit anytime between 0900 and 1700 hrs, as long as they have a booked appointment.
- Outside visiting hours, detainees can only be contacted by phone.

PERTH

- Visiting hours are 0930 to 1130, 1430 to 1700 and 1830 to 2000. Food, clothing and documents will not be accepted outside of visiting times. Visitors are not permitted to leave items

for detainees once processing of visitors has ceased (20 minutes before cessation of visits session).

- If the detainee is leaving early in the morning, luggage can be accepted. A receipt will be issued by Centre Control.

BAXTER

- Items can be delivered to the Gatehouse (main entrance) anytime as the Centre is open 24 hours. Visit hours are – Monday to Sunday 0900 to 1200 and 1300 to 1600. On Tuesday and Thursday 1830 to 2030.

MARIBYRNONG

- Items can be left at all visits sessions, however, ACM request that luggage not be brought in at evening visits. Can be done with DIMIA approval though.
- Food, clothing and documents will not be accepted outside of visiting hours.
- Visits sessions are 0900 – 1200 hrs, 1400 – 1700hrs and 1900 – 2100hrs

CHRISTMAS ISLAND

Items may be delivered between normal business hours. Visitors can drop off goods and not necessarily want to actually visit the detainee, ie. may be a food package for a select group (such as end of Ramadan). Visit times are Monday to Friday 1000 to 1200 and 1400 to 1600.

(4) As a condition of entry, packages and mail are required to pass through a metal detector. Should this not be possible, a hand held metal detector is used. All packages are opened by the detainee in the presence of an officer. Items again are entered on the 'In Trust Property Card' or given as 'In Possession Property'. Staff also hand deliver mail to detainees following clearance from DIMIA. Detainees will open mail in the presence of an officer. The officer is to ensure that mail or packages do not contain contraband, money or any illegal items.

(5) Visitors can not give packages directly to detainees for security reasons, so as to ensure that no prohibited or illegal items are allowed into the Centre (see also answer to part (2)).

(6) The detention service provider is responsible for ensuring a package is delivered to a detainee. A visitor hands approved items to the Property Officer who receipts the items, with the visitor receiving the receipt and a copy to the detainee. Money received by visitors for detainees is witnessed by two officers and receipted by the Property officer from the visitor and placed in the detainee safe deposit box.

(7) This has not been the policy of any immigration detention facility at any time.

(8) Not applicable.

(9) Not applicable.

(10) A form is completed by each visitor bringing parcels into the Centre. Receipts are issued. Records of all packages mailed or left by visitors are recorded on individual detainee's files. There is no central register.

If and when the detainees are released from the centre or depart, they are requested to sign off every item that is recorded under their names before leaving the centre.

Aviation: Security

(Question No. 1643)

Mr Martin Ferguson asked the Minister for Transport and Regional Services, upon notice, on 18 March 2003:

(1) With respect to cockpit security on commercial aircraft, has he mandated the installation of cockpit security systems in all commercial aircraft; if not, why not; if so, what has been mandated and does it apply to domestic and international operations.

(2) Has the International Civil Aviation Organisation provided any direction or directive on the provision on such systems; if so, what.

(3) What is the timeframe for action by the Australian Government on this issue.

(4) Is he aware of the Australian made AACE Flightsafe system; if so, has he assessed its effectiveness relative to other systems produced overseas; if not, why not.

Mr Anderson—The answer to the honourable member's question is as follows:

(1) I expect to adopt the recent ICAO amendment 27 to Part One, Chapter 13 of Annex 6. The details of the measures are being finalised on the light of legal advice. These requirements would apply to all commercial aircraft certified to a Maximum Takeoff Weight (MTOW) of 45,500Kg and above, or a 60-seat and above seating configuration, whether operating internationally or domestically. Key elements of the amendment include hardened cockpit doors, door locking requirements, "discreet warning" systems and cockpit door surveillance.

(2) Yes, ICAO has mandated the installation of hardened cockpit doors and other measures as described above.

(3) The ICAO standard specifies a deadline of 1 November 2003 and Australia has adopted this timeframe.

(4) No. The Government is not mandating or recommending the use of any particular system for the implementation of the ICAO standard. This has been left to the industry to choose a system that meets their needs in achieving the required level of security.

Immigration: Asylum Seekers

(Question No. 1709)

Mr Andren asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 20 March 2003:

(1) How many refugees on Temporary Protection Visas have died while in Australia in each year since 1999.

(2) How many inquests into the deaths: (a) have been completed, and (b) are in process but have not been completed.

(3) Have any of the deaths not been investigated by an inquest; if so, why.

(4) Do State and Territory Coroners have jurisdiction into the deaths of asylum seekers which occur in Commonwealth detention centres.

(5) In respect of each completed inquest: (a) what were the findings and recommendations of the Coroner, (b) have the staff of his Department or Australasian Correctional Management Pty Ltd (ACM) been criticised for: (i) the treatment of the deceased, (ii) the treatment of the deceased's family, or (iii) failure to provide adequate documentation and information to the inquest; if so, what are the details of the criticism; (c) were changes recommended to: (i) the conditions of detention, (ii) departmental practices, (iii) the practices of ACM, (iv) the provision of medical care, or (v) access to medical services including counselling services; if so, what are the details; and (e) have similar recommendations been made in more than one coronial report; if so, what are they.

(6) How many deaths have been attributed to suicide and, in respect of these deaths, did the Coroner's findings make any recommendations for changes his Department's staff or ACM staff should make to procedures; if so, what were those recommendations.

Mr Ruddock—The answer to the honourable member's question is as follows:

(1) I am unable to answer this question, as the Department does not keep records of deaths of people on Temporary Protection Visas.

(2) See answer to part (1).

(3) See answer to part (1).

(4) Yes.

(5) (a) The findings and recommendations for each completed inquest are as follows:

Danny Franklin Barker

- *Finding:* That the deceased died on the 10 May, 1998 at Liverpool hospital, Liverpool in the State of New South Wales of liver failure and bleeding, gastro oesophageal varices, due to cirrhosis of the liver.
- *Recommendations:* Nil.

Hai Phuoc Vo

- *Finding:* That the deceased died on the 14 January 2001at Western Hospital, Footscray from chest infection related to persistent sinus.
- *Recommendations:* Nil.

Mohammed Yousef Saleh

- *Finding:* That the deceased died on the 23 June 2001 at Hollywood Private hospital as a result of gastro-intestinal haemorrhage due to penetration of aorta by mediastinal abscess.
- *Recommendations:* Nil.

Avion Hlonganane Gumede

- *Finding:* That the deceased died on the 26 July 2001 at the Villawood Detention Centre, Villawood in the State of New South Wales from hanging, self inflicted with the intention of taking his own life.
- *Recommendations:* Nil.

Puongtong Simaplee

- *Finding:* That the deceased died on the 26 September 2001 in the Lima Compound, Villawood Detention Centre, Villawood in the State of New South Wales from the direct cause of consequences of narcotic withdrawal with an antecedent cause being malnutrition and early acute pneumonia.
- *Recommendations:*

  (i) The evidence at this inquest would suggest that the use of largactil for drug withdrawal is not appropriate and immediate steps should be taken to withdraw that drug for that specific use.

  (ii) The medical records kept at the Villawood Detention Centre in this case fell well short of the standard expected. All medical staff should be issued a directive emphasising that directions given by treating doctors and/or nursing staff should be comprehensively noted in the medical files and a detailed and chronological record must be kept of vital observations.

  (iii) The practice of entrusting detention staff to be responsible for vital medical observations in a non clinical setting is an inappropriate delegation of the responsibility of medical staff and should cease. If the facilities at the Detention Centre are such that vital medical observations cannot be conducted in a clinical setting, consideration should be given to having the detainee hospitalised.

Thi Hong Hanh Le

- *Finding:* That the deceased died on the 13 January 2002 at Liverpool hospital, Liverpool in the State of New South Wales from a head injury, whether self inflicted with the intention of taking her own life or by accidental fall, the evidence does not allow me to adduce.
- *Recommendations:* Nil.

(b) Of the Coronial inquests finalised, the staff of Australasian Correctional Management have been criticised in relation to the death of Puongtong Simaplee:

(i) The treatment of the deceased. The details of the criticism are shown at 5(a) above; and

(ii) No adverse findings were reported in regard to the treatment of the deceased's family; and

(iii) Failure to provide adequate documentation and information to the inquest. The details of the criticism are shown at 5(a) above and relate to the documentation of medical notes and observations of the deceased only and not in relation to the production of those documents at the inquest.

Of the Coronial inquests finalised, the Department received adverse comments in relation to the death of Mohammad Yousef Saleh as follows:

(iii) The non-production of documentation relating to the deceased's period of confinement at Port Hedland Immigration Reception and Detention Centre (IRPC). The Coroner considered that it was unlikely that the placement of the deceased at that time had any significant bearing on the circumstances of his death.

(c) Following the death of Puongtong Simaplee at Villawood, the following changes were recommended:

(i) the conditions of detention – no recommendations;

(ii) departmental practices – no recommendations;

(iii) the practices of ACM – see 5(a) above;

(iv) the provision of medical care – see 5(a) above;

(v) access to medical services including counselling services – no recommendations.

The Department and its service provider acknowledge the recommendations in the case of Ms Simaplee and had already instituted changes that addressed the issues prior to the Coroner handing down his findings.

(d) Similar recommendations have not been made in more than one coronial report.

(6) Only one death was attributed to suicide and in respect of this death, the Coroner made no recommendations for changes to either the Department's or ACM staff procedures.

Immigration: Asylum Seekers

(Question No. 1710)

Mr Andren asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 20 March 2003:

(1) In respect of the procedures for dealing with the deaths of asylum seekers detained under Australian jurisdiction, and the treatment of their relatives, what are the procedures or protocols his Department uses to deal with: (a) deaths of asylum seekers in detention or in a hospital or other place to which they were removed from a place of detention, and (b) the deaths of refugees on temporary protection visas.

(2) What is his Department's protocol for burial of the deceased.

(3) What are his Department's policies, procedures or guidelines for dealing with close relatives and friends at the time of death and/or in the period leading up to death, and how does it ensure that these are implemented.

(4) What are his Department's processes for the internal review of: (a) deaths in detention facilities or in a hospital or other place to which an asylum seeker was removed from a place of detention, and (b) of deaths of refugees on temporary protection visas.

(5) Is his Department responsible for informing families of the deceased of their rights in respect of: (a) requesting a Coronial inquest, or (b) representation at any Coronial process or inquest; if so, what procedures does it have to fulfil this responsibility and how does it ensure they are implemented; if not, is he able to say whether these responsibilities lie with the Coroner in each jurisdiction.

Mr Ruddock—The answer to the honourable member's question is as follows:

(1) (a) The Department's response to deaths of asylum seekers detained under Australian jurisdiction begin by informing the relevant authorities immediately upon death. The relevant authority is usually the State Police but may be the Federal Police. The police normally notify the Coroner. The Department and the services provider cooperate fully with the police and Coroner in any investigation.

In addition to the formal investigation into a death by State/Commonwealth authorities, the detention services provider will also perform a full internal investigation surrounding the circumstances to analyse internal administrative procedures and where necessary, make recommendations to changes to those procedures. The report will be provided to the Department for analysis to ensure it addresses all the necessary issues. The Department may also supplement this process and engage the services of a panel of experts to provide independent advice in areas such as security, medical/health issues, risk/project management and investigations. The outcome of these additional reviews would be discussed with the detention services provider for incorporation, where necessary, into approved procedures.

Where the Coroner inquires into the death, any comments or recommendations made in the Coroner's report are also then followed up and implemented, where necessary, where they have not already been implemented as the result of internal or Departmental processes.

(b) Once on a temporary protection visa the individual becomes a member of the community and as with any other visa holder the Department would not necessarily be aware of the death nor be involved in any investigation or burial arrangements.

(2) The process for the burial of a deceased detainee will vary depending on the religious and cultural background of the detainee. If the detainee has family in detention or in the community they are consulted and involved in the preparation and burial of the body. If appropriate they are involved in arrangements to transport the body to their country of origin. Funeral Directors with experience in different cultural burials are approached to handle the arrangements and where appropriate community religious leaders are also involved.

(3) The Department approaches each situation in a manner that addresses the individual circumstances of the case. In general, the Department attempts to consult with the family concerned. It is usually a matter for the family to inform non-family members.

(4) (a) As stated in (1)(a) above, in the event of a detainee death the matter is referred to the relevant authorities, usually the State police. Once this has occurred the matter will be referred to the Coroner and the formal review is carried out by those qualified authorities but is assisted where possible by the Department. The Department may investigate a matter relating to a detainee death where service delivery may be in question, and also looks to coronial findings to improve processes where possible.

(b) The Department generally has no role in respect to the death of TPV holders.

(5) The responsibility for informing families of the deceased their rights in respect of a coronial inquest or representation at an inquest is a matter for the Coroner's office. The Department may provide assistance if requested.

Defence: National Service Medal

(Question No. 1736)

Mr Ripoll asked the Minister Assisting the Minister for Defence, upon notice, on 24 March 2003:

(1) Since the introduction of the National Service Medal how many people have been entitled to receive it.

(2) To date how many applications for National Service Medals have been (a) received and (b) issued: (i) nationally, (ii) in each state and territory, and (iii) in the electoral division of Oxley.

(3) What is the average time taken to process an application for a National Service Medal.

(4) What is the longest time taken to process an application for a National Service Medal.

(5) Why has the Government not organised any formal public ceremonies to present the National Service Medal.

(6) Have there been any delays experienced in the delivery of National Service Medals; if so, why.

Mrs Vale—The answer to the honourable member's question is as follows:

(1) Approximately 330,000.

(2) (a) 155,000.

(b) (i), (ii) and (iii) Over 70,000. However, identification of applicants within each state, territory or electoral division is not a required data field for processing applications. Consequently, this information cannot be readily generated and a manual search would require diversion of the resources now utilised to process applications, resulting in increased delays.

(3) Six months (since February 2003).

(4) To ensure fairness, each enquiry is processed in order of receipt and establishing the correct entitlement of an individual is a time-consuming procedure, often involving lengthy manual searches of personnel records. If an entitlement is established, the medal needs to be formally approved, engraved and forwarded by registered post. Due to these factors, the issue of the Australian National Service Medal (ANSM) does require up to an 11 month waiting period. Accordingly, eligible medal applicants will be receiving their ANSM in order of the date applications are received.

(5) Formal presentation of the Medal by local MPs within their electorate occurs on a regular basis.

(6) In terms of the date of dispatch from the Department to the date of delivery to the recipient, there have been no delays reported.

Telstra: Mount Macedon Site

(Question No. 1813)

Mr Brendan O'Connor asked the Attorney-General, upon notice, on 13 May 2003:

(1) Is he aware that construction of a Code Division Multiply Access (CDMA) Tower at the Emergency Management Australia (EMA) site at Mt Macedon commenced in March.

(2) Does he support the use of the EMA site in Mt Macedon for the construction of a CDMA tower.

Mr Williams—The answer to the honourable member's question is as follows:

(1) I am advised that construction of a CDMA Tower at the Emergency Management Australia (EMA) Mount Macedon site commenced on 17 February 2003 and that Telstra directed that work on the Tower be put on hold on 14 March 2003.

(2) I am advised that Telstra is undertaking a thorough assessment of the site's suitability in consultation with the local council and the community. The appropriateness of the site is a matter between Telstra and the community.

Fuel: Taxation

(Question No. 1899)

Mr Fitzgibbon asked the Treasurer, upon notice, on 26 May 2003:

(1) Did the Treasurer reject Treback Inquiry's recommendation to place an excise on gas transport fuels.

(2) Did he say in a media release dated 14 May 2002: "The proposal to tax all fuels based on their relative energy content would impose tax on previously unexcised fuels such as ethanol and LPG. This would have implications for the LPG retail fuel industry and LPG conversion businesses, and is also contrary to the Government's election commitment to maintain excise exemptions for fuel ethanol and biodiesel. For these reasons the Government will not be implementing this recommendation.".

(3) Is this still his view and what mechanisms will he put in place to ensure that the recent Budget decision to tax LPG will not have adverse implications for the LPG retail fuel industry.

Mr Costello—The answer to the honourable member's question is as follows:

(1) Refer to my media release of 14 May 2002 titled 'Report of the Fuel Taxation Inquiry.

(2) Refer to my media release of 14 May 2002 titled 'Report of the Fuel Taxation Inquiry'.

(3) Refer to my media release of 13 May 2003 titled 'Fuel Tax Reform for the Future'.

Immigration: Iranian Detainees

(Question No. 1903)

Ms Plibersek asked the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 26 May 2003:

(1) Exactly what information has been given by DIMIA to the Government of Iran about Iranian people held in detention in Australia.

(2) To what extent will this endanger them in the event of their forced removal to Iran.

(3) What guarantees has Iran given regarding the safety of any of its nationals forcibly returned to Iran.

Mr Ruddock—The answer to the honourable member's question is as follows:

(1) The Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) provides limited information about Iranians in detention to the Iranian Embassy where it becomes necessary to seek their assistance with removing those who have no legal reason to remain in Australia. Consistent with standard practice, this information is limited to key details required for the purpose of establishing identity and obtaining travel documents.

(2) The information provided to the Iranian Embassy is limited to key details required to establish an individual's identity, including names and passport details.

(3) As with all individuals in Australia without authorisation, Iranian nationals have access to an exhaustive refugee determination process, which includes merits and judicial review. Individuals are

not removed where this would place Australia in breach of its international obligations relating to the removal of non-citizens.

Veterans: Vietnam

(Question No. 2002)

Mr Brendan O'Connor asked the Minister for Veterans' Affairs, upon notice, on 5 June 2003:

Was the Nominal Roll of Vietnam Veterans compiled prior to a Determination of Warlike Service in Vietnam that was signed on 23 December 1997 by the then Minister for Defence Science and Personnel, the Hon. Bronwyn Bishop.

Mrs Vale—The answer to the honourable member's question is as follows:

The Nominal Roll of Vietnam Veterans was compiled by the Department of Veterans' Affairs and published in August 1997. There have been no further editions of the Nominal Roll of Vietnam Veterans published since August 1997.