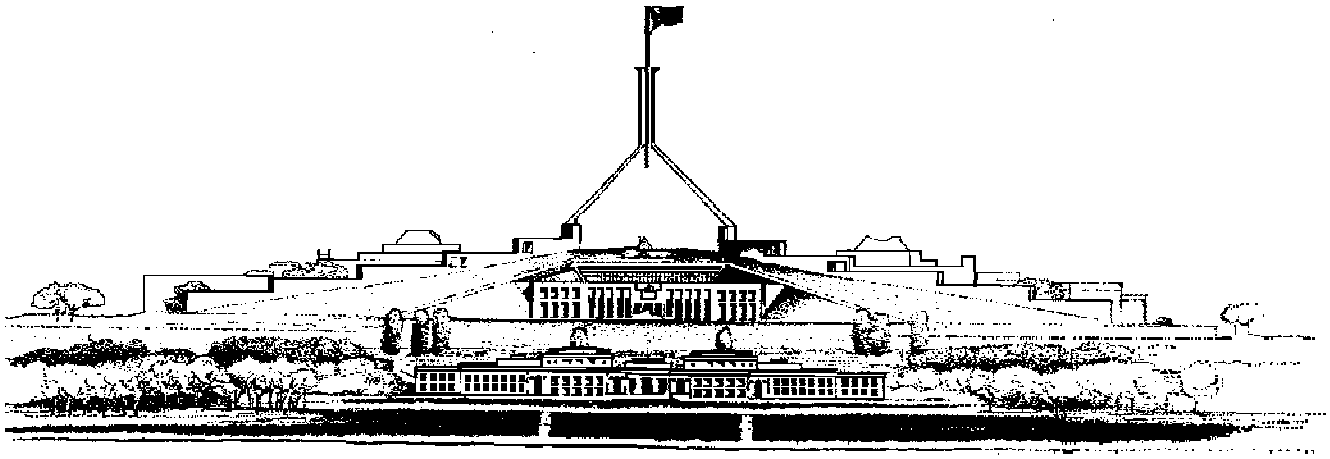
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



# SENATE

## Official Hansard

## TUESDAY, 8 OCTOBER 1996

THIRTY-EIGHTH PARLIAMENT
FIRST SESSION—FIRST PERIOD

BY AUTHORITY OF THE SENATE
CANBERRA

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TUESDAY, 8 OCTOBER

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*Tuesday, 8 October 1996*

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**The PRESIDENT (Senator the Hon. Margaret Reid)** took the chair at 2 p.m., and read prayers.

## REPRESENTATION OF NEW SOUTH WALES

**The PRESIDENT**—I inform the Senate that, through the Governor-General, I have received from the Governor of New South Wales the original certificate of the choice of the houses of the New South Wales parliament of Senator William Daniel Heffernan to fill the vacancy caused by the resignation of Senator Michael Baume. I table the document.

## QUESTIONS WITHOUT NOTICE

### Treasurer: Visit to the United States of America

**Senator SHERRY**—My question is to the Minister representing the Prime Minister. Will the Prime Minister direct the federal Treasurer, Mr Costello, to apologise to US Federal Reserve chairman, Dr Alan Greenspan, for leaking details of their confidential discussions? Were either the Department of Foreign Affairs and Trade or the Department of the Treasury at fault for not properly briefing Mr Costello with regard to Dr Greenspan's policy of never publicly commenting on likely trends in interest rates and inflation rates? Finally, given that one of Dr Greenspan's staffers was quoted as saying, 'I hope he is not expecting a return invitation,' would the Prime Minister consider using ambassador designate Peacock in a mediating role to repair the damage done by Mr Costello's ill-considered comments?

**Senator HILL**—That is a highly creative question, I would have thought. Mr Costello said the statements he made were on the basis of public information. There was no leaking of anything said to him by an American official. Therefore, there is no reason for him to apologise or for us to apologise on his behalf, and Australian-American relations are in good shape.

**Senator SHERRY**—Madam President, I ask a supplementary question. Senator Hill, given your answer, how do Mr Costello's arrogant actions conform with your own Prime Minister's ministerial code of conduct, which states:

> Ministers . . . must be . . . honest in their public dealings and in particular must not mislead intentionally the Parliament or the public. Any misconception caused inadvertently . . . must be corrected at the earliest opportunity.

Can you inform the Senate where Mr Costello's subsequent actions were both honest and not misleading to the public?

**Senator HILL**—Firstly, as the honourable senator knows, Mr Costello is not an arrogant man. He is quite a modest character, actually.

**Senator Faulkner**—On a point of order, Madam President: if Senator Hill is going to mislead the Senate in that way, could he wipe the smirk off his face when he does so.

**The PRESIDENT**—There is no point of order.

**Senator HILL**—And a very good Treasurer, I was about to say—and a fine representative for Australia when abroad. As I said a moment ago, statements made by Mr Costello were on the basis of what was on the public record. He said that in the United States and there the matter should end.

### Taxation

**Senator FERGUSON**—My question is addressed to the Assistant Treasurer. I refer the minister to the considered comments last week by the shadow Treasurer, Mr Evans, when he said on Melbourne radio:

> . . . since we are so undertaxed by any relevant international standard, there is a case for having some overall revenue increase.

In response to the great public interest in Mr Evans's frank admission of Labor's real tax policy, I ask whether the minister believes that we are 'so undertaxed by any relevant international standard' and whether he believes that all Australians, including people in the federal electorate of Lindsay, should be taxed more?

**Senator SHORT**—I thank Senator Ferguson for his question. The first thing I would say by way of answer is that I think it would have been a bit safer for Mr Evans to have remained relevance deprived rather than enunciating Labor Party economic policy.

What Mr Evans did, of course, was to let the cat out of the bag on Labor's hidden tax agenda.

**Senator Alston**—A tiger!

**Senator SHORT**—A tiger, as Senator Alston says, not a cat. Labor clearly believes that all Australians—including the people of Lindsay who are facing a by-election in a couple of weeks time—should pay more tax, not less tax. Labor intends to go well beyond looking at rorts and anomalies in the system—and, by the way, they were rorts and anomalies that Labor, when in government, let go unchecked and unhindered year in and year out. As well as the question of rorts and anomalies, what Labor intends to do is to impose an overall tax burden increase on every Australian.

As for Mr Evans's assertion that we are 'so undertaxed by any relevant international standard', he really must have been on another planet when he was making that statement because the only standard which he could possibly have been comparing us against was Labor's own hidden high taxation blueprint for Australia. Australia's tax burden is higher than that in the United States. Isn't the United States a relevant international standard? Australia's tax burden is higher than that in Japan. Isn't that a relevant international standard? Rather than being undertaxed relative to Japan and the United States, we pay more tax.

Even when we add in the high taxing countries of Europe, our tax burden could not be considered to be out of the ballpark. For example, according to the latest OECD data, our tax to GDP ratio for 1994 is 29.9 per cent compared with a weighted OECD average of 32.7 per cent. So there is not all that much difference. On provisional OECD estimates, our tax to GDP ratio in 1995 climbed to 31.3 per cent of GDP under Labor. So, frankly, Mr Evans was simply dead wrong in his statement. He wants to put up taxes and let government spending just keep growing and growing in the profligate way that it did when Labor was in office.

The question that Mr Evans and the opposition need to answer is: precisely which taxes is Labor going to put up? Will they put up income tax again? Will they put up sales tax again? Will they simply introduce a whole raft of new taxes which, as Australian taxpayers know full well, burdened all Australian taxpayers right across the board during Labor's years in office, particularly in their last few years in office, which they obviously have not learnt from. Their agenda on taxation is quite unequivocally higher and higher taxes for each and every Australian.

**Senator FERGUSON**—I ask a supplementary question. I note the minister's answer and further ask: how does Mr Evans's statement on Australia's level of taxation fit with the reality of the taxation regime of the last 13 years?

**Senator SHORT**—I thank Senator Ferguson for his supplementary question because it allows me to say, again, that the Labor Party in government was the high tax party. In Labor's last three budgets, they incorporated measures which directly increased the tax burden on Australians by a whopping $7.7 billion.

**Senator Sherry**—Because of economic growth.

**Senator Bob Collins**—Don't you want the economy to grow?

**Senator SHORT**—They do not like hearing it, but they will. In 1995-96 alone, the policy measures from their previous three budgets meant that Australians were paying $7.2 billion of extra tax. You would have thought that raising all that extra tax would make balancing the books pretty easy. But, no, they left office with a deficit of $10 billion for this year alone and a debt to the nation of $100 billion. *(Time expired)*

## Treasurer: Visit to the United States of America

**Senator FAULKNER**—My question is directed to the Minister representing the Prime Minister. Minister, will the Prime Minister direct the federal Treasurer to apologise to the *Financial Review*'s Washington correspondent for unjustifiably attacking the veracity of his reporting? When Mr Costello described Mr Stutchbery's article as 'fanciful', was Mr Costello unaware that there was a tape recording of his press conference? Minister, when will Mr Costello admit that he tried to cover

up his global gaffe by impugning the integrity of someone who was faithfully doing his job?

**Senator HILL**—I do not actually represent Mr Costello but the Prime Minister accepts what Mr Costello said and that statements he made were on the basis of what was on the public record, what was well known. Otherwise, the question has already been answered in relation to the first question.

**Senator FAULKNER**—Madam President, I ask a supplementary question. Is it not true, Minister, that Mr Costello, firstly, breached confidence and protocol in briefing the media on his meeting with Dr Greenspan? Secondly, didn't he resort to a deliberate deceit in order to cover up that issue? Thirdly, wasn't Mr Costello left exposed as a fraud and a real mug when the tape recording of that briefing was revealed? I ask the minister, Madam President: do you believe that it is acceptable for a minister to behave in such an appalling way?

**Senator HILL**—The answers to the three specific questions are: no, no and no. I believe Mr Costello well represented Australia's interests during his visit overseas.

### Family Tax Initiative

**Senator ELLISON**—My question, which is addressed to the Leader of the Government in the Senate, relates to the government's budget, which has been overwhelmingly endorsed by Australians. In particular, I refer to the government's family tax initiative, which will give $1 billion a year to almost two million families with children. The minister would be aware of a report today which shows that the family tax initiative will boost the incomes of 71 per cent of families and not benefit the wealthiest Australians, as had been claimed. Can the minister inform the Senate as to how the Howard government will assist Australian families, which were so badly treated by Labor? Does the recent report support the government's plans?

**Senator HILL**—Yes, this is a very important question because it raises an issue of major concern to the Australian people and results really from the overtaxing of Australian families by the previous Labor government. It is true that a stunning majority of Australians have endorsed the first Howard budget. One of the reasons they have done so is the promises within that budget to Australian families in relation to tax relief. A family tax initiative, of course, honours the election commitment that we made to help Australian families.

The family tax initiative will benefit, through $1 billion a year, almost two million Australian families with children. I remind the Senate that the majority of Australian families with dependent children will benefit. They will receive a $1,000 increase in their tax free threshold for each dependent child. One income families will receive a further $2,500 increase in their tax free threshold if they have a child under five. That is good news for Australian families.

Today's release, as the honourable senator said, of a study by the National Centre for Social and Economic Modelling at the University of Canberra shows that the family tax initiative will boost the incomes of 71 per cent of families. Contrary to the claims of Labor and others, the report shows that wealthy Australians will not benefit. I quote the report:

> Almost 65 per cent of these gains will be directed towards families in the bottom half of the eligible family population.

The report goes on to say:

> Lower income families experience the highest percentage increases in income as a result of the tax cuts. Two-thirds of the benefits of the proposed family tax changes accrue to families with incomes below $38,700 per annum. Around 40 per cent of the total gains go to families in the bottom 30 per cent of the family income distribution, with annual taxable incomes below $25,000.

The report also says:

> Single income couples with children will have an average increase of $10.50 per week . . . Sole parents will gain, on average, $8.30 per week.

There is no doubt that this report vindicates the government's view that the budget is both fair and equitable. This could be contrasted starkly with the record of the previous Labor government. I remind you that ABS household income data showed that income inequality worsened under Labor, with the bottom 20 per cent of householders suffering a $40 per week loss.

Poorer Australians did badly under Labor. We recognise this. This is why we pledged to the Australian people to introduce a family tax initiative that would particularly benefit lower income earners with children. We have kept that promise. The fact that we have kept it is now being endorsed by individual organisations. It is not surprising, therefore, that the Australian people so strongly are responding positively to the budget that we recently put down.

**Senator ELLISON**—I ask a supplementary question, Madam President. Is the minister aware of further indications of support for the government's efforts to improve the living standards of Australian families?

**Senator HILL**—I could go through all the research that has been released in recent times. The *Australian* survey, you will recall, endorsed the government's record on taxation and endorsed the government's record in relation to family support. These are not surprising because they are consistent with the facts. We have recognised that Labor divided the Australian community. Labor drove a wedge between the rich and the poor in this country. Labor created that which social commentators called for the first time the development of an underclass.

This was the record of Labor. It failed to appreciate that the battlers were doing badly. They were doing badly because they either did not have work or their standard of living was dropping. That is the principal reason why the coalition government was elected. It was elected because it recognised that the poor and the less well off in our community had done poorly under Labor and it was time they got a fair deal. *(Time expired)*

## Media Ownership

**Senator SCHACHT**—My question is directed to the Minister representing the Prime Minister. Is it a fact that at the launch of the coalition's communications policy document, Mr Howard said:

> But there will also be interest in the strong commitment of the Coalition to have a public, and I underline the word public, inquiry into the appropriateness of the existing cross media rules relating to media ownership.

Why has the Prime Minister condoned such a blatant breach of his election promise? What has changed in the interim that would justify such a breach?

**Senator HILL**—As I recall, the policy provides for a comprehensive media review. That has now been announced by my colleague Senator Alston. So the policy commitment has been met. The public will have the opportunity to contribute to this media review out of which, no doubt, good policy will flow.

**Senator SCHACHT**—I ask a supplementary question, Madam President. Has the government or the minister contacted that person singled out to chair a public inquiry, as stated by the Minister for Communications and the Arts, Senator Alston, as reported in the *Canberra Times* of 9 August this year, and explained to them that they will no longer be needed?

**Senator HILL**—I don't know what he is talking about, Madam President.

**Senator Faulkner**—I rise on a point of order, Madam President. Is it in order for any minister, let alone the Leader of the Government in the Senate, having been asked a clear question from a member of this Senate, to respond in that way? Is that answer in order in question time? Is that in accord with Mr Howard's and this government's professed standards of ministerial responsibility and accountability to the parliament?

**The PRESIDENT**—There is no point of order. It is a matter for debate and comment as to whether or not members of the opposition regard any answer as satisfactory. But the minister is entitled to answer the question as he sees fit.

**Senator Cook**—On the same point of order, Madam President: the minister responded by saying that he had no idea. It may well be that that is exactly true of Senator Hill. But the minister is accountable to the parliament, and to the Senate specifically, to provide answers to questions put. If he has no idea, as Senator Hill claims he has, his obligation is to go back and find out from the relevant minister and reply to the parliament and to this chamber so that an honourable senator's question can be answered. I think it

is contemptuous of Senator Hill to answer as he did, dismissive of the interests of this chamber. I think you should direct him, Madam President, to answer the question or obtain an answer if he does not know it.

**The PRESIDENT**—The minister has answered the question as he is able to do so. If he obtains any further information and seeks to give it to the Senate, he can find the opportunity to do so.

### Aboriginal Children: Separation from Parents

**Senator KERNOT**—I direct my question to the Minister for Aboriginal and Torres Strait Islander Affairs. Does the minister agree that debate on Aboriginal affairs has escalated, fuelled by the government and the member for Oxley, to the point where it seriously damages any prospect of reconciliation? Is the government now engaged in a strategy to undermine the inquiry into 'the stolen generation'? Why shouldn't we recognise that the policy of forcibly removing thousands of Aboriginal children from their families was wrong and is a part of the real and shared history of our country? As a staunch supporter of family values, does the minister agree that perceived benefits such as education and success are no substitute in the majority of cases for parental and family love and a sense of identity, no matter how humble the circumstances? The Prime Minister in the other place has said that your views have not been accurately reported on this. Does the minister agree that this policy was a wrong policy and has contributed to Aboriginal disadvantage?

**Senator HERRON**—I thank Senator Kernot for the question because it does give me the opportunity to set the record straight. I have the transcript of an interview that I gave last Tuesday, Senator Kernot. The very beginning of the transcript, which I am happy to give to you, reads:

Journalist: You are obviously a man with enormous empathy. You have a lot of feeling, like I was thinking about Somalia and things like that. Do you feel for the people of the stolen generation?

Senator Herron: Yes. I mean, you know, it is horrific to think that that occurred, but you can't visit the sins of the fathers and the mothers on the children, which is what we are in today's society. We can look back and say these terrible things were done, but we can't blame ourselves because it wouldn't occur today. We would no more think of doing it than fly. We can't relive the past. I think we can be regretful, we can be sorry, but we can't change the past. The past has occurred. We have to accept it for what it was, and it was horrific, it was unbelievable.

I will not go on.

**Senator Margetts**—What does the next bit say?

**Senator HERRON**—I will read on, then; okay:

Journalist: As the minister for Aboriginal affairs, though, you have to do something about that. There are not a lot of that generation that are still alive and a lot of their children's children are being affected by it. Is there any commitment, you know, is the government going to look at compensation seriously, or where can we go from now?

Senator Herron: One, we must recognise that a lot of people have benefited—

and I am talking about education—

Aboriginal people have come up to me—

and they have come up to me—

in Western Australia and told me how much they have benefited from that, and you in turn must ask Lois O'Donoghue what her views are. It is not fair to quote that particular person—and it was a woman. If she had not been taken for education then she would not achieve what she did. She would not have been educated and she would probably be married to a remote community elder.

That is the truth, Senator Kernot. That did occur. That person is prepared to come forward, I might say, but I have not asked her to do so. That is not in the interview.

Having said that, we cannot change the past, Senator Kernot. I accept everything that you said in your general statement. As Lady Macbeth said, 'What's done is done'; it cannot be undone.

*Opposition senators interjecting—*

**Senator HERRON**—That is true: it is done; it cannot be undone. The question of compensation will be addressed in the reply that the Attorney-General is preparing for the inquiry into the separation of children. It will be a whole of government response in that regard. So I think that answers the final point of the statement that you made.

Yes, I do think the debate has got off the rails in many respects, and there has been misrepresentation, as I have just demonstrated. Fortunately, a lot of that interview appeared in the paper on the Monday following the publication of one line on the Saturday. I might say that I gave that interview on the Tuesday before that, and I suppose it took four days of diligent searching of that interview to dredge something out of it to get a bit of a run.

Yes, the debate is causing enormous angst in society as a whole. I think that it has got off the rails in many regards.

*Senator Bolkus interjecting—*

**Senator HERRON**—After 13 years the now opposition did not solve the problem. The inquiry into the separation of children was supported by both sides of parliament. *(Time expired)*

**Senator KERNOT**—Madam President, I ask a supplementary question. Minister, you say that what is done cannot be undone, but it can be acknowledged, can't it? Will you acknowledge the link between this policy and the origins of Aboriginal disadvantage? Will your government speak up for the truth of this matter rather than let it hide behind blind ignorance and prejudice dressed up as freedom of speech in this country? Doesn't leadership require speaking up for the truth even if you fear it will not be popular?

**Senator HERRON**—In an interview on the *7.30 Report* I said what my views were in relation to the statements made by the independent member for Oxley. I made that perfectly clear. First of all, the Liberal Party disendorsed her—that must be acknowledged—for the statements that she made. I also came out and spoke against the statements that she had made. I made it perfectly clear in that interview that the Aboriginal people are the most disadvantaged in society in this country, which was very opposite to the statement she was making. They are the most disadvantaged. They are the most disadvantaged in terms of housing, education and health. That is what this government is addressing through the budget process.

## Port Hinchinbrook Development Project

**Senator FAULKNER**—My question is directed to the Minister for the Environment. Minister, do you recall, at a Senate estimates hearing on 24 September, that you said that you made your final decision to consent to the Port Hinchinbrook development proposals on 22 August this year and that the decision was yours and yours alone? How, then, do you explain the Prime Minister telling the Townsville *Bulletin* on 24 July that he had been personally involved in the decision to approve the development and the Deputy Prime Minister telling the annual conference of the Queensland National Party on 19 July that the government had granted conditional approval to the project? Minister, I ask: who is telling the truth? Were Mr Howard and Mr Fischer telling the truth, or were you telling the truth?

**Senator HILL**—I recall, during some 12 hours of an estimates committee, that question actually having been asked on that occasion. The answer I give now is the answer I gave then—that it was my decision and my decision alone. What others may or may not have said, or may or may not be reported to have said, is not a matter within the province of my knowledge.

**Senator FAULKNER**—I have a supplementary question. I ask the minister whether it is true that the Prime Minister said in the Townsville *Bulletin* on 24 July:

> I got personally involved in the decision because I knew it was a real sort of test of whether or not we could deliver in real terms to regional areas?

And I also ask whether it is true that Mr Fischer told the annual conference of the Queensland National Party on 19 July:

> I refer first to the local key project of Port Hinchinbrook which is a long overdue development and which is now being shown can proceed without damage to the environment subject to certain conditions and in relation to which the government has granted conditional approval.

I ask again: who is telling the truth? Are they telling the truth, or are you telling the truth? Minister, you cannot have it both ways.

**Senator HILL**—It might surprise the honourable senator, but I was not privy to an interview with the Townsville *Bulletin* which

the senator claims took place with the Prime Minister. It might surprise him even more that I was not present at the National Party meeting to which he refers.

### Aboriginal Children: Separation from Parents

**Senator MARGETTS**—My question is also to the Minister for Aboriginal and Torres Strait Islander Affairs. I note quotes today from the minister that 'we must recognise that a lot of people have benefited by being part of the stolen generation'. That is a paraphrase. How many is a lot, Minister? What is your comment in relation to Lois O'Donoghue's comments today when she said:

> I was removed as a two-year-old from my mother . . . . by the missionaries. Two other sisters were removed at the same time. . . . In that home, of course, we were brought up with a lot of so-called half-caste children, who were also removed from Pitjantjatjara country in South Australia. We were removed. . . . to Christianise us, and were denied our culture, we were denied our language.

Is this what you believe is part of your role as a minister? And what do you think your statements do for reconciliation? *(Time expired)*

**Senator HERRON**—I thought I answered that before in the sense that this government does not support, today, any suggestion of separation of the children that occurred in the past. Nobody would support that, Senator Margetts. Nobody could possibly conceive of that occurring, and we certainly do not support that attitude. I certainly do not support that attitude. I would personally find it, as I have said, horrific if any government agency were to come in and take any of my children from me. I understand what you are saying.

You asked how many people had said that they benefited by that. The answer is that a small number of people approached me; a small segment.

**Senator Bob Collins**—That's not what you said publicly. I have got the transcript.

**Senator HERRON**—Yes. I have the transcript, too. I was answering Senator Margetts's question. There are 300,000 Aboriginal people in Australia. It is estimated that anywhere between 30,000 and 40,000—the exact extent is unknown—people were taken forcibly from their families. And, Senator Margetts, it is occurring today. According to a letter to the editor in the *Australian*, there are children, both white and black, being taken from their parents today. In New South Wales last year, according to the letter to the editor in the *Australian*, there were 7,000 children separated from their parents. So it is an event that is occurring in a judicial sense today.

Coming back to your question, I do not know how many people. As I said, a number of people came up to me in Western Australia when I attended the Council for Aboriginal Reconciliation breakfast. It was in that circumstance that they said that they had benefited. I cannot go back on that. They said to me that they did benefit from it and I was saying it in that context. I can give you the full transcript of that.

But of course it was an horrific occasion. It was an horrific circumstance. It must be acknowledged, and it is acknowledged by the government. The government will be making a submission to the inquiry into the separation of children. It will be within that context—that in no way do we support the forcible separation of children that occurred in the past.

**Senator MARGETTS**—I have a supplementary question. Does this mean that the minister understands the level of hurt to the extent that he will be making sure that proper funding is available for adequate counselling for people who have been involved with this dreadful process to talk about their horrific histories and what a lot of them suffered under the stolen generation? And does this minister also take his obligations seriously enough to make sure that culturally appropriate education is actually available to people in Aboriginal communities so that there is no talk, as members of your government have done, about reintroducing a system of hostels and about taking children away again and again in the future?

**Senator HERRON**—As I said, this will be addressed in the submission that is going through to the inquiry from the government. The government is supporting culturally appropriate education, Senator Margetts. I can

say unequivocally that I have been to more Aboriginal communities in the last six months than anybody else in this chamber or, I suspect, in this parliament.

**Senator Bob Collins**—I would hope so; you're the minister for Aboriginal affairs.

**Senator HERRON**—I hope you will not criticise my expenditures, Senator Collins. Having said that, there is a lot going on out in the communities that the majority of parliamentarians, let alone the public, are unaware of. There are a lot of good things occurring, both in education and in health. We are concentrating on health care delivery and outcome, which is culturally appropriate, Senator Margetts. Senator Margetts, I would welcome you to come along with me so that you can be educated and not make the fatuous comments that you have just made. *(Time expired)*

## Gun Control

**Senator BOLKUS**—My question is addressed to the Minister representing the Prime Minister. Minister, was the advertising agency which was awarded the contract for the critically important national gun control public education advertising campaign on OGIA's register on 30 June this year?

**Senator Hill**—Whose register?

**Senator BOLKUS**—OGIA's—Office of Government Information and Advertising. Did the Prime Minister's chief political adviser, Mr Grahame Morris, at any stage contact OGIA and request that DDB Needham Adelaide be added to the list of those firms bidding for the advertising contract? On a later occasion, Minister, did the same Mr Morris suggest that DDB Needham Adelaide be added to the short list, in spite of it having finished fifth in the evaluation?

**Senator HILL**—I have no reason to accept what has been said in the question. Actually, I know very little. All I know of the matter is what I have read in the newspaper. But I gather that it was debated at length in the estimates committee, and the opposition received all the answers that they would appropriately expect. If they were dissatisfied with the answers, I have no doubt that we will hear it all again in the supplementary estimates.

**Senator BOLKUS**—Madam President, I ask a supplementary question—and this is a serious question. I would suggest to Senator Hill that his responsibilities here go to more than just reading the newspapers; representing the Prime Minister, he should be on top of this particular issue.

Minister, in finding out the answers to my previous questions, will you also find out whether Mr Grahame Morris has ever declared a conflict of interest, given that he had worked so closely with the principals of DDB Needham Adelaide, Mr Toby Ralph and Mr John King, during both the last federal election campaign and the state Liberal election campaign in South Australia? Senator Hill, these are serious questions that go to the question of probity in government. They do go directly to the Prime Minister's office. Will you provide an answer to these questions?

**Senator HILL**—I am reminded of what former Senator Graham Richardson said, when a lucrative contract went to John Singleton in 1989. He said:

> It is not the case now, nor has it ever been, that an agency which has the account of a political party which is in government should be banned from receiving government advertising.

He got it right on that occasion. The agency to which you refer is an excellent agency and I am sure will do a very good job in relation to this contract.

**Senator Bolkus**—On a point of order: the minister was asked some very serious questions going to interference in a tendering process by the Prime Minister's office. We are given absolutely no guarantee or assurance that he will treat them seriously. We are given no assurance that he will take them up with the Prime Minister. We are given no assurance that the Senate will be provided with any answers. Madam President, I ask you: is this the way for a minister to answer a question? Why is he running away from his responsibility on this?

**The PRESIDENT**—Order! There is no point of order. The minister has answered the question as he saw fit, and there are other

opportunities for you to pursue the matter if you wish to do so.

### Women in Parliament

**Senator PATTERSON**—My question is addressed to the Minister for Social Security and the Minister Assisting the Prime Minister for the Status of Women. As the minister would be aware, at the Labor Party's New South Wales annual conference over the weekend, Labor again admitted that they have no hope of meeting their promise of preselecting women for 35 per cent of their safe seats by the year 2002. As former Labor federal MP and former minister Jeanette McHugh said at the conference:

> It has become a huge humiliation and embarrassment for Labor every time they fail to preselect a woman.

What has the Howard government done in this regard, and what actions has the government taken to advance the cause of women?

**Senator NEWMAN**—I thank Senator Patterson for her question. She has long been interested in and concerned with trying to get women into politics. She is a classic example of why women of ability should be encouraged to come into parliament. In fact, on this side of politics we are very proud of the large numbers of women who have come in on our side of the parliament.

But, of course, it is true that Labor has no chance of getting 35 per cent of their safe seats by the year 2002. The New South Wales Minister for the Environment—

*Opposition senators interjecting—*

**The PRESIDENT**—Order!

**Senator NEWMAN**—Madam President, they do not like to hear the quotes. But the New South Wales Minister for the Environment, Ms Pam Allan, said just at the weekend:

> Federally we have failed miserably to promote women. Meanwhile the Liberals managed to put a clutch of women into marginal Labor seats at the last federal election.

Also, as Senator Patterson has just said, Jeanette McHugh, a former Labor federal minister, said that it has become a huge humiliation and embarrassment for Labor every time they fail to preselect a woman. That is why we get such a noise on the other side when there is anything to do with the representation of women. There may be a chance, of course, that they will try to put a woman into Holt if the current incumbent disappears from there. But they have not done much good so far.

We have had Jeanette McHugh retiring, replaced by Anthony Albanese; David Simmons retired, preselected Robert Allan, won by Peter Andren independent; Wendy Fatin retired, replaced by Kim Beazley; Michael Duffy retired, replaced by Gareth Evans; Chris Haviland retired, preselected Lowry, won by John Fahey for the Libs; Brian Howe retired, replaced by Martin Ferguson; Eric Fitzgibbon retired, replaced by Joel Fitzgibbon; Gary Punch retired, replaced by Robert McClelland; Ben Humphreys retired, preselected Kevin Rudd—and that was a seat that was actually won by Graeme McDougall for the Liberals; Peter Staples retired, replaced by Jenny Macklin—one woman; Ross Gorman retired, replaced by Frank Mossfield; Alan Griffiths retired replaced by Bob Sercombe; Paul Keating retired replaced by Mike Hatton. I hope I have the time to finish. Of 13 ALP members, including two women members, who retired at or since the last election, in only one case—that is Jenny Macklin—was a woman preselected to replace the retiring member. That is one out of 13.

By comparison, our side of parliament now has women coming on and on and on. We have four women in the ministry, two of them in the cabinet. We have yourself, Madam President, the first woman elected President of the Senate. We have acted; we have not gone on with rhetoric as the Labor Party has done. We have given support to women. We have preselected them. But we have first of all encouraged them to come forward and get the support of the party in applying for preselection and in fighting their campaigns. They have been given the opportunity.

We are going to win one of our women back into the parliament shortly in the Lindsay by-election—Jackie Kelly. It is a Labor man who is whingeing about losing the seat to a Liberal woman. We are going to

show that that Liberal woman, who has well represented her electorate for the last seven months, is going to come back here with renewed force and vigour. The Labor Party likes to shout because there is such embarrassment. We have had Jennie George. What was Senator Belinda Neal's husband telling them at the weekend? Didn't he tell them to go away or get lost or something? We have supported our women. *(Time expired)*

**Senator Harradine**—Madam President, on a point of order: is Senator Newman's reference to coalition women members as a 'clutch of women' parliamentary? I have heard of a clutch of ducks but I have not heard of a clutch of women.

**The PRESIDENT**—I shall take advice from my colleagues as to whether or not they regard it as offensive and advise you privately later, Senator Harradine.

### Aboriginal Children: Separation from Parents

**Senator BOB COLLINS**—My question to the Minister for Aboriginal and Torres Strait Islander Affairs follows the several answers that he has given to questions this afternoon. There is now a clear and distinct difference between what the minister claims he said and what the journalist reported he said. I understand that the interview was taped, so it will be a matter obviously for the journalist to examine what Senator Herron has to say, and we will take it up at that time.

My question is related to the comments the minister made about the inquiry. Is the minister aware that the Commonwealth government is now the only government in Australia which has failed to respond to this inquiry? Is the minister further aware that the human rights commission has on several occasions extended the operating time of this commission and deferred hearings to try to accommodate the Commonwealth government and still failed to get a response from the Commonwealth? Indeed, the commission has publicly protested about it. Can the minister explain to the Senate when the Commonwealth government will finally make a submission to the inquiry and why has there been such an inordinate delay?

**Senator HERRON**—The government decided it was important to take a forward looking approach to issues before the inquiry and has provided details of policy priorities in the areas of indigenous health, housing, education and employment. The government has an unswerving commitment to improve outcomes in the future for indigenous people, recognising their severe disadvantage in many areas of life and enterprise. The government has asked relevant Commonwealth agencies to do as much as possible to assist the inquiry with its research in relation to relevant factual information. In relation to demands for compensation, the government will address the current needs of indigenous Australians through programatic responses aimed at areas of disadvantage.

Senator Collins asked why there has been delay. The reason for the delay is that we are gathering as much factual information as possible. The government does have some concerns about the practical ramifications and is preparing a whole of government response that will be put to the royal commission shortly.

**Senator Robert Ray**—Royal commission?

**Senator HERRON**—Thank you, Senator Ray—to the national inquiry by the Human Rights and Equal Opportunity Commission. Questions as to the government's likely response to the finding of the inquiry will be addressed not unreasonably after the commission brings down its report.

**Senator BOB COLLINS**—Madam President, I ask a supplementary question. Is it a fact that the original draft of the submission that had been prepared contained an acknowledgment of the Commonwealth's liability in this issue and that was objected to by the Prime Minister and that the submission is therefore now being redrafted? Is the minister aware, as he clearly is, that the Prime Minister has expressed his reservations about the use of this inquiry? Does the minister share these reservations? If so, what are they?

**Senator HERRON**—Senator Collins will need to ask the Prime Minister because I will not be referring to any discussions that occurred in cabinet. I will address that question to

the Prime Minister and get a reply for Senator Collins.

## DISTINGUISHED VISITORS

**The PRESIDENT**—Order! I draw the attention of honourable senators to the presence in my gallery of distinguished former Senator Stan Collard. On behalf of all honourable senators, I wish you a pleasant visit to the national capital.

**Honourable senators**—Hear, hear!

## QUESTIONS WITHOUT NOTICE

### Environment: Wilderness Areas

**Senator LEES**—My question is directed to the Minister for the Environment. Minister, I note that on 4 September this year you launched a survey on wilderness. Among other things, you said, '99 per cent of people surveyed believe that wilderness should be conserved.' Does your government support that finding? In particular, can you tell me what your definition of a wilderness area is?

**Senator HILL**—I have been invited to suggest that there is a lot of wilderness on the other side of this chamber but that would not be taking an important question seriously. Yes, we do support the preservation of wilderness. We regard it as having important natural conservation value. In case there is a supplementary question, I know my colleague Senator Parer agrees with me on that. Evidence of it is demonstrated by the forest policy that we are currently implementing. I guess my definition of wilderness would be something that has not been significantly interfered with by human contact.

**Senator LEES**—I am not sure if I should thank the minister for such a brief answer. I had hoped that he would expand a little for us in view of comments made by other ministers on what wilderness is. Minister, do you believe that wilderness areas can be mined and logged without affecting their wilderness values? Referring to that survey, the vast majority of Australians asked also believe that there should be no further road incursions or four-wheel drive activities in wilderness areas. Do you rule out these activities from wilderness areas?

**Senator HILL**—I am on the record as saying that I find it difficult to see how certain industry interactions, such as mining, can be consistent with wilderness values. I would have thought that is evident, per se. I do not really understand why the question has therefore been asked.

### Superannuation

**Senator COOK**—My question is directed to the Assistant Treasurer. In a recent speech you said that the controversy over the administrative aspects of the superannuation surcharge was due 'in no small part to misinformation and scaremongering'. Were you referring to the Commissioner of Taxation, Mr Michael Carmody, who stated that the proposal could become an administrative nightmare unless strong action was taken? When will you be in a position to outline in detail the administrative aspects of the surcharge? Will you guarantee that the costs of administering the surcharge will not be passed on to low and middle income earners?

**Senator SHORT**—No, I was not referring to the tax commissioner. I was referring to someone who I have called the scaremonger—Scaremongering Sherry actually: Senator Sherry, who, on a campaign for week after week before the budget, deliberately misled the Australian people with a whole series of falsehoods which caused unnecessary fear and concern amongst hundreds of thousands, if not millions, of Australians. So it was to Senator Sherry that I was referring.

So far as the administrative arrangements are concerned, the government is consulting very extensively and very thoroughly with a wide range of the stakeholders, including the superannuation funds, the company funds and a range of others. The Taxation Office is very heavily involved in negotiations because the Taxation Office will in fact bear most of the administrative burden involved in this.

We have never shied away from the fact that there will be some administrative additional imposts as a result of the decision, which is a decision, I remind the Senate, to produce a fairer and more equitable superannuation system in Australia after years and years of the former Labor government allow-

ing an increasing degree of inequity to creep into the system. What we are trying to do is produce a fairer and more equitable system.

The decision by the government I think has been very widely welcomed throughout the community. There are issues concerned with the implementation of the decision, and they are the issues that are being consulted on at the moment. We are very confident that at the end of those consultations we will be able to announce administrative arrangements which will minimise the costs involved to all concerned.

Certainly there will be some additional costs. You cannot make a change of this nature without any additional costs. But they certainly will be no imposition on fund contributors. They will not be an imposition on employers. The burden will be shared between the tax office, to which we have given additional resources to do this job, and the superannuation funds. The final details will be announced when those consultations are concluded.

I can assure the Senate that any additional costs that will be imposed into the system will be the minimum costs that will be compatible with increased efficiency and economy of an arrangement which will produce a far fairer and more equitable superannuation system for all Australians.

**Senator COOK**—Madam President, I ask a supplementary question. Was Mr Carmody right when he said that the proposal could become an administrative nightmare unless strong action was taken? Do you agree with Mr Carmody on that? Will you answer the question that I asked: when will you be in a position to announce? You said that there will be consultations and you will announce after that. When will that be? Will you answer the third part of the question: can you give us a guarantee now that, irrespective of the minimal charge that you foreshadow will be imposed, it will not be passed on to low and middle income earners?

**Senator SHORT**—In response to the three questions: it will not be an administrative nightmare if we can, as a result of the consultations, as I am very confident that we will, produce a set of administrative arrangements that will enable the system to run efficiently and equitably.

**Senator Sherry**—What if you can't?

**Senator SHORT**—Again, it is more part of the scaremongering that is going on in advance of consultations being concluded. If you could stop the scaremonger from continuing his scaremongering here, it would be a big help.

So far as when the arrangements will be announced, I cannot give Senator Cook a precise date, but it will be as soon as possible after the conclusion of those consultations. So far as the third question is concerned, in relation to costs, as I said in my earlier answer the additional costs will be minimal in terms of the arrangements that we will be putting in place. *(Time expired)*

## Indigenous Education

**Senator KNOWLES**—My question is directed to the Minister for Employment, Education, Training and Youth Affairs. This government has made some substantial changes in the area of indigenous education. Could you please inform the Senate of these changes and how they improve outcomes for indigenous students after 13 years of total neglect by the Labor government?

**Senator VANSTONE**—Thank you, Senator Knowles, for that question. Although over time considerable gains have been made, educational outcomes for indigenous students are still significantly worse than those for the wider Australian student population. This government is strongly committed to ensuring that indigenous Australians have access to quality education—one that is relevant to their cultures and one which ensures that more Australians gain an understanding of the contribution that those cultures have made to our national identity.

Not only have we kept our pre-election promise to maintain funding for indigenous education, we have increased funding beyond that. Indigenous education programs other than for higher education—that is a separate matter—will be funded to almost $300 million in 1996-97 compared with expenditure of $264 million in the previous year. On taking office, this government made amend-

ments to what was then the Aboriginal education strategic initiatives program—it has now been changed to the indigenous education strategic initiatives program—to increase funding for that program by some $84 million over the 1996-99 period.

For the first time, funding will now be based on a per capita formula—that is, on the number of indigenous students enrolled in a preschool, a school or a TAFE college. That is a much fairer and more equitable way of distributing the money. The more indigenous students that stay on at school, the more money that school will get. It helps to ensure that the money goes where the students are, not just to follow historical patterns of distribution of money. The old program very largely focused on inputs and strategies, and the redesign of the program will shift the focus to outputs and outcomes.

The new program will, in addition to per capita funding, have funding for strategic results projects. That is intended to be one-off, time limited projects which will assist in overcoming major barriers to educational entitlement. Education providers will receive recurrent funding provided that they keep up with their annual performance targets. There will be bilateral negotiations between the Commonwealth and each state, targets agreed and worked on. The continuation of funding will be dependent upon the continuation of performance and improved performance. In that way, we will get much better value for money for indigenous Australians in their education.

Providers will have to be even more accountable not only to indigenous communities but to other taxpayers for the results of the educational delivery. There will be quite a lot of winners in the new, fairer funding system. Many providers are going to get increased dollars based on the number of students in their schools. The Commonwealth is absolutely determined that much better value for money will result from these changes.

**Senator KNOWLES**—Madam President, I ask a supplementary question. I thank the minister for outlining the changes to the main funding body for indigenous education. However, could the minister also inform the Senate of support for other funding programs for indigenous education and employment?

**Senator VANSTONE**—I thank Senator Knowles for her supplementary question because there is quite a lot this government is doing that does not get sufficient recognition.

Student assistance under Abstudy has been maintained. Funding for the Aboriginal education direct assistance program is being increased by $8 million from 1996-97 to some $59 million. The government's indigenous higher education package announced in August this year provides a further $72 million over the next three years to support improved educational outcomes for indigenous students in higher education. This works out to be $24 million a year—an increase on the amount the previous government was spending. In recent years, the former government's total expenditure on indigenous higher education was less than $16 million per annum.

The training for Aboriginals and Torres Strait Islanders program, better known as TAP, is being maintained as a key employment program and around $45 million will be available to support employment and career development opportunities for indigenous people in the public and private sectors. The combination of all these things means what we have often heard before—that is, that indigenous Australians do better under a coalition government. *(Time expired)*

**Senator Hill**—Madam President, I ask that further questions be placed on the *Notice Paper*.

### Aviation: Emergency Locater Beacons

**Senator ALSTON**—On 18 September last I was asked a question by Senator Collins—that is the Senator Collins who does not have delusions of grandeur about following Gareth Evans when he throws in the towel in Holt shortly. I now have information from the Minister for Transport and Regional Development providing—

**Senator Robert Ray**—On a point of order, Madam President: the opportunity is granted by leave and by precedence for ministers to supplement their answers, not to get up to make snide and abusive remarks before they

go into their answer. There are plenty of forums in this house if Senator Alston wants to indulge his passions—on the adjournment or elsewhere—but not at this point of the day.

**Senator ALSTON**—Madam President, can I simply say that I was endeavouring to be helpful. There are, of course, two Senator Collins and I did not want anyone to be under any misapprehension about who had asked me the question. On the basis that we now all know whom it was, I have some additional information which I hereby table.

**Senator Faulkner**—On a point of order, Madam President: in terms of supplementing answers to questions or questions taken on notice, it is the tradition in this chamber that ministers either incorporate by leave their answers into the *Hansard* so that they are part of the parliamentary record or, alternatively, read their supplementary answers into the *Hansard*.

It is, in my view, out of order for a minister to propose to table his supplementary information—and I know why he is doing it, because he knows he does not require leave as a minister to table an answer. I know of no occasion, Madam President—you may be aware of one—where a minister has tabled supplementary information or supplementary advice to an answer taken on notice or a question without notice. It is a most unusual procedure.

I put to you, Madam President, it is out of order. You should rule that Senator Alston either seek leave to have that extra information to his answer incorporated in *Hansard* or read it into the record.

**Senator ALSTON**—Madam President, I am happy to read it into the record. It is a short answer. The usual practice, as I understand it, is to table answers that are of anything other than a short length.

**Senator Robert Ray**—You should seek leave to incorporate it.

**Senator ALSTON**—I do not have to seek leave. I am happy to read it; otherwise I will bring it back tomorrow. I will do whatever you like. Do you want it read now or not?

**Senator Robert Ray**—Madam President, I rise on a point of order. You might point out to Senator Alston that the normal practice is to read out the answer. However, if it is long and detailed and you let the person who had asked that question know in advance, they usually say, 'No, don't bother with that, because you're a busy person. Seek leave to incorporate it.' I am sure even on this occasion, apart from your opening remarks, we would give you permission to incorporate it now rather than read it, but the alternative should be put to the Senate. Some answers need, in fact, to be read to the Senate because of their importance. I do not think this one fits that category.

**The PRESIDENT**—My understanding of the situation is that answers are either read out by ministers, when they give supplementary information on another day or on the same day when the question was asked, or incorporated by leave. If answers have been tabled in the past, I am not personally aware of it, but I would not say that that had never happened. I do not know.

**Senator ALSTON**—Madam President, I will read the answer:

. Further to Senator Collins' question of 18 September of 1996 the Minister for Transport and Regional Development has advised me that the Government is fulfilling an election commitment to mandate carriage of ELTs but also permit approved portable ELTs.

. The Government's position on ELTs is quite clear; we have retained the mandatory requirement for the carriage of ELTs but allow pilots to carry approved portable ELTs as an alternative.

. These requirements will be reviewed after three years when the aviation authorities have more experience for the mandatory carriage of ELTs.

. The Government's position on ELTs was clearly explained in its aviation policy statement.

. CASA provided options in this regard and the Government accepted a proposal by CASA which met the Government's policy.

. On 5 June 1996 the Government implemented its election commitment with the introduction of a new Civil Aviation Regulation governing ELTs.

. These regulations will not take effect until 31 July 1997 which will assist industry to meet the requirements of the new regulation.

. The new regulation provides for portable ELTs and portable Emergency Position Indicating Radio Beacons (EPIRBs) which meet specified

standards, to be carried in aircraft as an alternative to fixed automatically activated ELTs.

## Media Ownership

**Senator FAULKNER** (New South Wales—Leader of the Opposition in the Senate) (3.10 p.m.)—I move:

That the Senate take note of the answers given by the Minister representing the Prime Minister (Senator Hill), to questions without notice asked by Senator Schacht today, relating to media ownership.

I do that particularly to draw to the Senate's attention the extraordinary situation that we have had at question time today: when a minister in a government that professes the highest standards of ministerial accountability and parliamentary process has determined, in answer to at least two supplementary questions and one primary question in question time today, that he will not provide any information to the Senate at all. He has determined also not to take a question on notice.

Of course, that inadequate minister who put forward this wimpy and pathetic performance today is none other than the Leader of the Government in the Senate, Senator Hill. Not only has he failed to be across the brief and across his responsibilities as Leader of the Government in the Senate, but he is acting in clear contravention to the guidelines that his own Prime Minister (Mr Howard) has put down in relation to ministerial responsibility and ministerial performance.

On page 3 of the Prime Minister's much vaunted *A Guide on Key Elements of Ministerial Responsibility*, we see this particular paragraph. It says this:

. the portfolio minister is ultimately accountable for the overall operation of his/her portfolio. Other ministers in the portfolio, however, also have a clear accountability for areas of responsibility allocated to them and are required to answer questions in relation to those areas . . .

Senator Hill, you ought to take note of that part of *A Guide on Key Elements of Ministerial Responsibility*. While you are doing that, you may care to flick the document over to page 23 and read the section on questions without notice. It says:

In general, questions asked at question time are answered fully by ministers. From time to time, a minister may undertake to provide further information during question time. This undertaking is regarded as taking the question (whether in part or in whole) 'on notice'.

Then it goes on to outline how the minister may provide further information or answer. But what Senator Hill has done in question time today is to try to, in the most miserable and transparent way, duck his responsibilities to answer questions in this chamber during question time. It is not good enough for you to stand up and say to Senator Schacht—who asked a very clear and very pertinent supplementary question—'Oh, I don't understand what that question means,' and sit down and not even, as any other minister would do, take a question—about which you knew nothing, about which you had no knowledge, about which you were found to be grossly inadequate and incompetent in terms of your own ministerial responsibilities in this place—

**Senator Ian Macdonald**—Mr Deputy President, I raise a point of order. The point of order is on relevance. The senator has moved that note be taken of the answer. So far—and he is four minutes into his speech—he has spoken about the way Senator Hill chooses to make an answer not on the substance of the answer. It would seem to me that Senator Faulkner is not speaking to the motion to take note of the substance of the answer but is simply giving his views on the way different ministers should or should not answer questions. So I raise that as a point of order on relevancy on the motion to take note.

**The DEPUTY PRESIDENT**—Senator Faulkner is moving to take note of the answer, not necessarily the substance of the answer. Senator Faulkner, it might help if you directed your remarks through the chair.

**Senator FAULKNER**—I will. Thank you, Mr Deputy President. I say through you that absolutely clearly the supplementary question asked by Senator Schacht was a perfectly reasonable question. It followed from the rather pathetic answer that Senator Hill gave to the primary question asked by Senator Schacht. Senator Hill—who clearly did not understand the question, who clearly did not have a sufficient grasp of his own responsibilities as Leader of the Government in the

Senate, who could not answer that question—ought to have done the honourable thing in accordance with this government's much touted guidelines on ministerial responsibility and taken the question on notice.

The same situation arose in relation to questions that were directed to Senator Hill in his capacity as Leader of the Government in the Senate representing the Prime Minister in relation to DDB Needham, the advertising agency that was awarded the contract for the national gun control public education advertising campaign. Senator Hill was asked a three-part primary question which he not only could not answer but was unwilling to take on notice so that he could provide Senator Bolkus with the information that he required. Senator Hill was also asked a clear supplementary question which he could not answer and refused to take on notice.

Mr Deputy President, the opposition will not accept the situation where the ministers of this government treat their own responsibilities and this place with such contempt, and Senator Hill ought to get his act together in the future. *(Time expired)*

**Senator SCHACHT** (South Australia) (3.16 p.m.)—I speak to the motion that Senator Faulkner moved. There have been appalling non-answers given to me by Senator Hill. I know why he does not want to answer the questions I ask—because the performance of the Minister for Communications and the Arts (Senator Alston) on this issue has been lamentable, to say the least, and on three major areas of policy in his portfolio he has become nothing but the doormat for the Prime Minister (Mr Howard) and probably the Treasurer (Mr Costello) as well.

On the issue of the media inquiry, on 12 March it was reported in the *Australian* that the minister 'would quickly establish a media inquiry'. That was on 12 March 1996. On 22 March 1996, the *West Australian* reported:

> The Federal Government wants to hasten a public inquiry into Australia's media ownership laws and have it report by the end of the year, Communications Minister Richard Alston said yesterday.
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> . . . . . .
>
> Senator Alston expected the inquiry to begin by the end of June.
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> . . . . . .
>
> A spokeswoman for Senator Alston said the Minister had not yet decided who would conduct the inquiry.
>
> But she said Senator Alston was keen to speed the process.

The *Australian Financial Review* of 21 March said:

> . . . but Senator Alston said it would be a priority—

that is the media inquiry—

> 'We'd like to get it moving.'

The *Age* of 7 August said:

> The office of the Minister for Communications, Senator Richard Alston, said yesterday he was still hoping to appoint an individual or a panel of three to head the inquiry within the next six weeks.

On Friday 9 August—in the article I referred to in my question to Senator Hill—the *Canberra Times* reported:

> Communications Minister Senator Richard Alston said yesterday he had chosen someone to head the Federal Government's long-awaited media ownership inquiry but he refused to be drawn on their identity or when the inquiry was likely to get under way.

That was on 9 August. An article appearing in the *Australian Financial Review* on 27 August said:

> The Federal Government has sounded out Mr Ian Robertson—a prominent Liberal in Holding Redlich, a legal firm with strong associations with the Labor Party—to see if he would be interested in being a member of the inquiry into media cross-ownership.
>
> . . . . . .
>
> The Minister for Communications, Senator Richard Alston, has said he has someone in mind for the inquiry, but has made no announcement. He is waiting to speak to the Prime Minister, John Howard, to gain final approval . . .

That was on 27 August. On 2 September he made a complete hash of discussion on this issue when, in an interview, he started speculating about the break-up of the Fairfax press and was promptly attacked by members of the Fairfax press who said that he did not know what he was talking about, and, again, was criticised for shooting off at the mouth.

On Monday, 2 September the *Canberra Times* said:

Senator Alston would not be drawn on when he would announce the make-up of the media inquiry, other than to say it was a matter of getting the terms of reference right.

Still a media inquiry was on the government's agenda in early September. Again, on 5 September, a similar article appeared in the *Australian Financial Review*, which said:

Alston seems committed to the inquiry because it was a promise, but it's increasingly doubtful it is a sensible course for the Government.

That was written by Michelle Grattan on Thursday, 5 September.

Then we had the king-hit article appearing on 9 September—an article that has subsequently been written about as being leaked to Glenn Milne of the *Australian* from the Prime Minister's office—headed 'Howard may drop public media inquiry'. That was curtains for this minister. After several months of putting forward a public inquiry that had been promised in the election—no holds barred, even promised by the Prime Minister—they had decided to back away from it. Of course, it was humiliating for this minister to be the Prime Minister's doormat when the story was leaked to the press, to a particular journalist, to announce the death of Senator Alston's media inquiry—the end of his credibility on the issue of media policy.

Senator Alston is a minister who has had three strikes against him on policy. One of them is broken promises on the funding of the ABC. After the promise to maintain it in real terms, there is to be a $209 million cut over four years. Senator Alston has been rapped over the knuckles and keelhauled by the Prime Minister over his loose remarks about the full privatisation of Telstra. Now we have it over the media inquiry. Again, he has been keelhauled by the Prime Minister and the Treasurer to again be defeated on policy. He has no credibility on policy at all. *(Time expired)*

**Senator BOURNE** (New South Wales) (3.21 p.m.)—I also wish to refer to the answer given by Senator Hill to Senator Schacht's question on the supposed media inquiry, which, of course, no longer is a cross-media ownership inquiry. Senator Schacht has mentioned almost all the dates that I was going to mention. It is a very long list and it is a very interesting list of how this has changed. There are a couple of things which bear repeating though.

Firstly, at the time when this whole thing was being mooted during the election campaign, Senator Alston was on a *Media Report* radio program with me and the then minister, Michael Lee. I would just like to quote Senator Alston from that radio report. When we were talking about the policies of both major parties for a cross-media inquiry, Senator Alston said:

Both of the major parties are advocating an inquiry into the future of the cross-media rules. The difference, of course, is that ours will be a public inquiry and the government's—

That is, the Labor Party at the time—

as usual will be a private one.

Of course, that has not happened, has it? On the same day Senator Alston said that they were not going to devise policies on the basis of whether any one individual would suffer a benefit or a detriment.

I am very pleased to hear that but, of course, if this inquiry goes ahead as we have now been told that it will then we will not be able to tell whether that is the case because the submissions that are made will not necessarily be made public. It would be very interesting to see what submissions are made by the major media proprietors in Australia, but I would be very surprised if those submissions were made public. Senator Alston went on to say:

The purpose of having a public inquiry is to take into account submissions from all the interested parties, and I imagine there will not be any shortage of those.

I know they are asking for submissions, but with a very short time frame. I must say that the very short time frame was one of the problems with submissions to Mr Mansfield's inquiry into the ABC. That is something that has happened again with this mooted inquiry.

I am not really quite sure why I am calling it an inquiry now—it is really a green paper. It is not a full inquiry and it is not a public inquiry; it is only a green paper. This means, of course, that the drafting of legislation on media ownership will be completely and

utterly up to the government without necessarily any public input at all. They do not have to make anything public that comes in. Of course, those of us who are putting in submissions may well make our own submissions public—that would be very interesting—but I would be particularly interested to see the submissions from the major media proprietors in Australia.

It is also interesting to note the way these sorts of announcements are made to the media. They do seem to be made so that they will get as little response as possible. The Telstra board announcement is a classic case. They announced the new Telstra board late on the Friday before a grand final football weekend. We can all imagine the massive coverage that had! I think that this one has been made as late as possible. As we heard from Senator Schacht, a lot of comments went on beforehand. A mysterious person was asked if they would chair the inquiry. They were still waiting to see who it was and whether they would do it or not when suddenly the mysterious person disappeared. There were a lot of questions about who it could have been and what happened. Suddenly, whammo! It is all gone: we have got a government green paper; we can put in submissions if we like; and they may or may not be made public—I would be amazed if they were. We will end up with the government deciding on the drafting of legislation, maybe or maybe not having read all the submissions and maybe or maybe not having made any of them public. The rest of us may or may not know what the input was into the drafting of this legislation.

This is not what was promised by the government. This is not what was promised by the now minister when he was speaking about this during the election campaign. I think it is very sad that this seems to be happening across the board in this portfolio. What seems to be happening in this portfolio is that promises were made and promises have been broken. Yes, of course, that is across the board everywhere.*(Time expired)*

Question resolved in the affirmative.

## Aboriginal Children: Separation from Parents

**Senator BOB COLLINS** (Northern Territory) (3.27 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron), to questions without notice asked by Senators Kernot, Margetts and Bob Collins today, relating to the former policy of forcibly removing part-Aboriginal children from their families.

A situation that occurs from time to time arose here today in the Senate, and that is that the minister has chosen to make a question of either his integrity or the integrity of the journalist from the *Australian* newspaper in terms of the accuracy of the report which received widespread coverage—as you would expect it would receive—in the *Weekend Australian.*

The minister did so by reading from an unsourced transcript, an account of what he now alleges he actually said, which of course substantially differs from the report that was carried in the *Australian* and which has prompted so much comment since. It dramatically differs, I might add, from that account.

We are all of us here aware of the famous political text known as *Animal Farm*, where the message on the blackboard changed every night and a new one appeared every day. I think that what we have had is a classic example of that being attempted here in the Senate today. What the minister said here in question time today was that, firstly, he was in fact not making a statement on his own account in any case; he was simply reporting what had been said to him by others. Secondly, the minister said what he had said was that a few Aboriginal people had received a benefit from being forcibly removed from their natural parents—usually, of course, the mother—and taken away, in most cases, sadly, never to be reunited. Quite often what happened in those cases was that the mother's death preceded any success by the child in being reunited.

The newspaper story was headlined 'Aborigines benefited from separation: Herron'. The opening paragraph said:

Many Aboriginal people have benefited from being forcibly removed from their families as children, according to the Minister for Aboriginal Affairs, Senator Herron.

Of course, if Senator Herron's account, given in question time here in the Senate today, is accurate and correct, the lead paragraph of that story could not be justified. The journalist went on to say:

In the Federal Government's first public comments on the stolen generation inquiry, Senator Herron also cast doubt on compensation arguing 'money might compound the problem'.

Senator Herron allegedly went on to say:

What we must recognise is that a lot of people have benefited by that (policy of removal).

I have to say that from time to time journalists are as prone as anyone else to make mistakes. Journalists do make mistakes, but from my experience with this particular journalist, who has interviewed me on a number of occasions, all I can say is that the subsequent reports have always been careful and accurate. I know that it is the practice of this journalist to tape record her interviews—at least she has done so when she has been interviewing me. So I suspect that the journalist has tape recorded the interview and that it would be an easy matter to determine whether the integrity of the minister is intact or the integrity of this journalist is intact in this very important and noteworthy story.

The journalist claims that Senator Herron said—and, frankly, I can hear him saying it—that a lot of people have benefited from this. It fits in, of course, with Senator Herron's one-dimensional view of Aboriginal affairs, which is one of his principal failings as a minister, in my view. The story then goes on to say:

Senator Herron declined to name the woman but claimed the head of ATSIC, Miss Lois O'Donoghue, who was taken from her parents at the age of two years, shared his view.

So the minister was very forthcoming in this interview. As a person who is familiar with the documented record of Ms O'Donoghue's feelings about this issue—which were published years ago—I was astonished by this assertion and not surprised to hear what I thought was a very moving interview with Ms O'Donoghue herself on *A.M.* this morning.

The matter cannot rest here because the minister has chosen to advance it one step further. He has contested the accuracy of this story and read into *Hansard* in question time today his account of what he said, which is dramatically different from the story reported and, as I say, would not have justified the opening paragraph of this story, if in fact it is accurate. Therefore, it now has to be determined whether the minister has misled the Senate in terms of what he said in the Northern Territory or whether this story in the *Weekend Australian* is an accurate account of what he said.

**Senator KERNOT** (Queensland—Leader of the Australian Democrats) (3.31 p.m.)—In Senator Herron's answer to me earlier today, I think he quite deliberately avoided making an essential link between the policy—which I believe is judged to be a failure—of forcibly removing thousands of Aboriginal children from their families and the origins of Aboriginal disadvantage in this country, for the very obvious reason that he does not want to prejudge any issue of compensation because this government is sidestepping and flick-passing the whole issue of monetary compensation for failed policy.

In my view, we should be addressing the wider context in which we are now debating this one aspect of the inquiry into the stolen generation. We should be asking ourselves: why has debate on most matters pertaining to indigenous affairs been fuelled, why has that been allowed to fester, and why has that been fostered by silence on the part of leadership in this country? Why has it been up to the Governor-General, as our head of state, to actually challenge the misinformed, blindly ignorant and prejudiced views of the member for Oxley (Ms Hanson)?

The minister made some concessions today about his qualified use of the word 'benefit'. I think we need to have a much broader debate in this country about the failure of a policy of forcibly removing children and its link with the origins of Aboriginal disadvantage in this country, so that we can quite clearly point to it and say to those who do not know the truth about this issue, 'You are wrong. What you are saying is quite clearly

wrong.' Only when we can say that this is the real history of our nation—when we own that history—can we move forward towards reconciliation.

I think all this sidestepping and flick-passing undermine the attempts that were being made in this country towards that goal of reconciliation supposedly by the year 2001. I would like to revisit this issue tomorrow, but I will finish now by using one example. I wonder whether Minister Herron watched the *Four Corners* report entitled 'Telling his story' about the Aboriginal activist in Western Australia, the one who set up the legal service and was a major player in initiating the inquiry that we are talking about today. He was taken from his mother at the age of two. He lived out his childhood in a home. He was sexually abused and said he was emotionally damaged. He hanged himself in the end and I dare anyone to say that he benefited from being taken from his family, or that his family or the wider community benefited from losing him.

**Senator MARGETTS** (Western Australia) (3.35 p.m.)—During the course of today's questions on this matter the minister went from his comment 'a lot of people have benefited' to 'a number of people, when I visited Western Australia' to 'there was a woman whose name I shan't mention.' What I want to find out is the truth of this matter.

**Senator Bob Collins**—The truth is the minister is a liar; that is the truth.

**Senator MARGETTS**—What is Senator Herron saying is his belief? What is going to be the response to the stolen generation inquiry? In this case, will there even be funding available for—

**Senator Short**—I ask Senator Bob Collins to withdraw that statement in relation to Senator Herron.

**The DEPUTY PRESIDENT**—I did not hear that statement.

**Senator Bob Collins**—Mr Deputy President, in answer to Senator Margetts's question as to the truth of the issue, I said, 'The truth is the minister is a liar.'

**The DEPUTY PRESIDENT**—Under those circumstances, you should withdraw the statement.

**Senator Bob Collins**—I withdraw, Mr Deputy President.

**Senator MARGETTS**—The issue is not only of credibility in relation to what was said, but credibility in what will be the outcome of this inquiry and whether or not the people who have trusted governments enough to put their lives on the line to present that will receive the support they deserve for having the courage to speak out. Will there be proper funding available for the counselling which would be required of anybody put in the situation of having to bear the hurts of what has happened as a systematic approach of consecutive governments in the past? The hurts and outcomes are not in the past. The hurts and the outcomes are ongoing and are being felt today, socially, economically and in every other way by the many people involved—not just the stolen generation, but the children of the stolen generation. There is no justice until there is recognition by whichever governments have been involved and that means an acceptance of liability. Government liability is an essential part of the justice that is required.

Until we can work those things out as a humane community, we will continue to ride on the coat-tails of those people who think scapegoatism in our community is an acceptable way of dealing with the real issues, the real hurts, in our society, those things that many people, not just the Aboriginal community, are concerned about. Scapegoatism is a way of diverting attention from the real issues and the real people associated with creating those real problems in our society.

**Senator PANIZZA** (Western Australia) (3.38 p.m.)—I know there is not too much time left, but I would like to take note of the same answer given by Senator Herron. Yes, I believe that 20/20 vision is a great thing to have, especially when you are looking back about 50 years and saying that something was the wrong thing to do.

**Senator Bob Collins**—If only it were that long, Senator Panizza.

**Senator PANIZZA**—It is a great thing to have. If you look at other things that have happened in Australia in the last 50 years, you will see that a lot were not done right according to today's standards. I put in that the British child migrant scheme, which was virtually the same thing only the children happened to be white rather than Aboriginal.

I remember also the furore that was kicked up about interning Italian citizens in Australia during the war. They were interned not only in prisoner of war camps but also in the Fremantle gaol. Fifty years ago that seemed all right, but looking back with 20/20 vision we see it was not such a good thing.

It is very hard to put today's standards on what happened 50 years ago. I do not say that it was right 50 years ago, but the government at the time thought that it was the thing to do. To say that not one Aboriginal benefited from that is a complete mistruth.

I was on radio yesterday morning supporting Wilson Tuckey on the Peter Kennedy show in Perth. He asked the ones whom I considered may have benefited from the education, the sporting careers and all those sorts of things, to come in or ring in. The point is that some have benefited. You ask them. You get up in this place to jump on any bandwagon that you might think did not do any good today.

**Senator Bob Collins**—Go and read the letter to the editor in the *Australian* today.

**Senator PANIZZA**—I will read that.

Question resolved in the affirmative.

## DAYS AND HOURS OF MEETING

Motion (by **Senator Hill**)—by leave—agreed to:

That:

(a) the hours of meeting for today be 2.00 p.m. to 6.30 p.m. and 7.30 p.m. to midnight;

(b) consideration of government documents not be proceeded with this day;

(c) the routine of business from 7.30 p.m. shall be:

(i) government business order of the day no. 1 (Workplace Relations and Other Legislation Amendment Bill 1996, second reading; and

(ii) At midnight, adjournment; and

(d) the procedures for the adjournment shall be as specified in the sessional order of 2 February 1994 relating to the times of sitting and routine of business.

## PETITIONS

**The Clerk**—Petitions have been lodged for presentation as follows:

### Industrial Relations

To the Honourable President and Members of the Senate in Parliament assembled:

We the undersigned citizens respectfully submit that any reform to Australia's system of industrial relations should recognise the special needs of employees to be protected from disadvantage, exploitation and discrimination in the workplace.

We the petitioners oppose the Coalition policies which represent a fundamentally anti-worker regime and we call upon the Senate to provide an effective check and balance to the Coalition's legislative program by rejecting such a program and ensuring that:

1. The full powers of the Australian Industrial Relations Commission (AIRC) are preserved as an independent umpire, including scrutiny of all industrial agreements for employee disadvantage with rights for parties with a material concern to be involved.
2. The role of the AIRC should be maintained to include making both paid rates and minimum rates awards containing provisions for all employment conditions such as occupational health and safety in settlement of industrial disputes.
3. That industry standards remain a core element of awards to ensure that enterprise bargaining principles do not put at risk educational conditions and standards.
4. The right to collectively bargain to reach a Certified Agreement should not be overridden by a subsequent Australian Workplace Agreement.
5. The powers and responsibility of the AIRC to ensure the principle of equal pay for equal work should not be limited.
6. Secondary boycotts are dealt with by the AIRC in the current form.
7. A "fair go all round" applies in relation to unfair dismissals.
8. Employees choice of jurisdiction is maintained in its current form.

Your petitioners therefore urge the Senate to reject the above proposed reforms to the area of industrial relations.

by **Senator West** (from 18 citizens).

### Industrial Relations

To the Honourable President and Members of the Senate in Parliament assembled:

We, the undersigned, citizens respectfully submit that any reform to Australia's system of industrial relations should recognise the special needs of employees to be protected from disadvantage, exploitation and discrimination in the workplace.

We, the petitioners, oppose the Coalition policies which represent a fundamentally anti-worker regime and we call upon the Senate to provide an effective check and balance to the Coalition's legislative program by rejecting such a program and ensuring that:

1. The existing powers of the Australian Industrial Relations Commission (AIRC) be maintained to provide for an effective independent umpire overseeing awards and workplace bargaining processes.
2. The proposed system of Australian Workplace Agreements (AWAs) should be subject to the same system of approval required for the approval of certified agreements (through enterprise bargaining). Specifically, an AWA should not come into effect unless it is approved by the AIRC.
3. The approval of agreements contained in the legislation should be public and open to scrutiny. There should be provision for the involvement of parties who have a material concern relating to the approval of an agreement, including unions seeking to maintain the no disadvantage guarantees.
4. Paid rates awards be preserved and capable of adjustment, as is currently the case in the legislation.
5. The AIRC's powers to arbitrate and make awards must be preserved in the existing form and not be restricted to a stripped back set of minimum or core conditions.
6. The legislation should encourage the processes of collective bargaining and ensure that a certified agreement within its term of operation cannot be over-ridden by a subsequent AWA.
7. The secondary boycott provisions should be preserved in their existing form.
8. The powers and responsibility of the AIRC to ensure the principle of equal pay for work of equal value should be preserved in its existing form. We oppose any attempt by the Coalition to restrict the AIRC from dealing with overaward gender based pay equity issues.
9. A "fair go all round" for unfair dismissal so that all workers currently able to access these remedies are able to do so in a fair manner, at no cost.
10. Workers under state industrial regulations maintain their rights to access the federal awards system in its current form.

Your petitioners therefore urge the Senate to reject the above proposed reforms to the area of industrial relations.

by **Senator West** (from 53 citizens).

### Industrial Relations

To the Honourable President and Members of the Senate in Parliament assembled:

We the undersigned citizens respectfully submit that any reform to Australia's system of industrial relations should recognise the special needs of employees to be protected from disadvantage, exploitation and discrimination in the workplace.

We, the petitioners oppose the Coalition policies which represent a fundamentally anti-worker regime and we call upon the Senate to provide an effective check and balance to the Coalition's legislative program by rejecting such a program and ensuring that:

1. The existing powers of the Australian Industrial Relations Commission (AIRC) be maintained to provide for an effective independent umpire overseeing awards and workplace bargaining processes.
2. Paid rate awards be preserved and capable of adjustment, as is currently the case in the legislation.
3. The AIRC's powers to arbitrate and make awards must be preserved in the existing form and not be restricted to a stripped back set of minimum or core conditions.

In addition we support the ACTU/ANF campaign against the Coalition's proposals to dismantle other existing industrial protection.

by **Senator West** (from 25 citizens).

### Higher Education Contribution Scheme

To the Honourable the President and Members of the Senate in Parliament assembled:

We the undersigned, students and staff of the University of Western Sydney Macarthur, hereby request that the Senate not support legislative attempts to:

introduce up front fees for Australian undergraduate students;

lower the thresholds at which HECS fees must begin to be repaid;

increase the level of HECS fees;

introduce a system of HECS whereby fees are differentiated according to course; or

reduce funding, in particular operating grants, to the sector;

and use all other means possible to oppose attempts to reduce public expenditure to education or increase the private contribution to the system.

by **Senator Faulkner** (from 235 citizens).

### Gun Control

To the Honourable the President and Members of the Senate in Parliament assembled:

The petition of the undersigned shows:

that the overwhelming majority of Australians support uniform, national gun laws and the associated compensation measures as agreed between the Prime Minister, State Premiers and the Chief Ministers of the ACT and NT.

Your petitioners ask that the Senate:

continue to demonstrate its firm support for these measures;

take all possible action to expedite their implementation; and

resist all calls for the control measures to be watered down or abandoned.

by **Senator Faulkner** (from 48 citizens).

### Head of State

To the Honourable the President and Members of the Senate in Parliament assembled:

The petition of the undersigned expresses wide-spread community support for an Australian as Head of State for Australia.

Your petitioners ask that the Senate note and endorse the wishes expressed in this petition.

by **Senator Crowley** (from 287 citizens).

### Australian Broadcasting Corporation

To the Honourable the President and Members of the Senate in the Parliament assembled.

The petition of the undersigned recognises the vital role of a strong and comprehensive Australian Broadcasting Corporation (ABC) and asks that:

1. Coalition Senators honour their 1996 election promise, namely that "The Coalition will maintain existing levels of Commonwealth funding to the ABC".
2. The Senate votes to maintain the existing role of the ABC as a fully independent, publicly funded and publicly owned organisation.
3. The Senate oppose any weakening of the Charter of the ABC.

by **Senator Bourne** (from 4,000 citizens).

### Australian Broadcasting Corporation

To the honourable the President and Members of the Senate in Parliament assembled.

This petition of certain citizens of Australia draws to the attention of the House that due to the recently announced budget cuts, important ABC programmes are threatened. We find the prospect of the following possible changes unacceptable:

heavy cuts to rural radio services.

possible curtailment of metro radio.

reduced Australian content on ABC TV.

cuts to children's programmes.

loss of the ABC's independence.

Your petitioners therefore request the House to continue to fund the ABC at levels appropriate for it to carry out its present Charter in a viable manner.

by **Senator Faulkner** (from 160 citizens).

### Industrial Relations

To the Honourable the President and members of the Senate in Parliament assembled:

The petition of certain citizens of Australia.

Your petitioners request that the Senate, in Parliament assembled should recognise that any reform to Australia's system of industrial relations should acknowledge the special needs of employees to be protected from disadvantage, exploitation and discrimination in the workplace.

Your petitioners oppose the Coalition policies which represent a fundamentally anti-worker regime and we call upon the Senate to provide an effective check and balance to the Coalition's legislative program by rejecting such a program.

Your petitioners request that the Senate reject the proposed reforms to the area of industrial relations as outlined in the Workplace Relations

Bill 1996.

by **Senator Faulkner** (from 70 citizens).

### Australian Broadcasting Corporation

To the Honourable the President and Members of the Senate in Parliament assembled:

Your petitioners request that the Senate take note as follows:

(a) We call upon the Australian Government to ensure that Triennial Funding is retained.

(b) That no cuts are made to the operation of the Australian Broadcasting Commission.

(c) Further, we call on the Australian Government to ensure that ABC services remain free of commercial sponsorship and advertising.

(d) That no cuts are made to radio and television services.

(e) That Radio National, Classic FM, Radio JJJ and Regional Radio Services are retained.

by **Senator Crane** (from seven citizens).

### Child Care

To the President and Members of the Senate assembled in Parliament:

We, the citizens of Australia and residents of the Northern Territory draw to the attention of the House that we are completely opposed to the abolition of the operational subsidy to community-based child care centres.

Your petitioners therefore humbly request that the House support the maintenance of the operational subsidy to community-based child care centres. And your petitioners, as in duty bound, will ever pray.

by **Senator Tambling** (from 97 citizens).

### Higher Education

To the Honourable the President and Members of the Senate in Parliament assembled:

The petition of the undersigned is as follows:

We protest against the proposed decreased funding of higher education institutions.

Your petitioners request that the Senate should:

Maintain the funding of higher education in accordance with the pre-election promises of the coalition parties.

Students at universities are major contributors to the research functions of universities. The reduction in the number of student places at universities, will reduce the research and development capacity of universities for Australia's development.

Academic potential does not necessarily correlate with students', and their parents', socio-economic status. Therefore the proposed increased university fees will deny many students a place in the university system for financial reasons.

We are concerned about the budgetary constraints on universities in retaining quality academic staff.

by **Senator Faulkner** (from 339 citizens).

Petitions received.

## NOTICES OF MOTION

### Austudy Regulations

**Senator BOSWELL** (Queensland—Leader of the National Party of Australia in the Senate)—I give notice that, on the next day of sitting, I shall move:

(1) That standing order 87 be suspended to allow paragraph (2) of this resolution to be moved without 7 days' notice and to be carried by the agreement of a simple majority of senators present and voting.

(2) That, for the purposes of section 49 of the Acts Interpretation Act 1901, the Senate rescinds its resolution of 10 September 1996 disallowing the AUSTUDY Regulations (Amendment), as contained in Statutory Rules 1995 No. 393 and made under the Student and Youth Assistance Act 1973.

### Aboriginal Reconciliation

**Senator KERNOT** (Queensland—Leader of the Australian Democrats)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) reaffirms, as part of the Parliament, its commitment to the goals and processes of Aboriginal reconciliation and the importance of reconciliation to the future of the nation;

(b) consistent with paragraph (e) of the preamble to the Council for Aboriginal Reconciliation Act 1991, calls on all Australian governments to accept an ongoing national commitment to address Aboriginal and Torres Strait Islander disadvantage and aspirations and to agree to set down benchmarks by which to measure the performance of all governments in honouring their commitments;

(c) welcomes the Council for Aboriginal Reconciliation's intention to convene an Australian Reconciliation Convention in Melbourne in May 1997 on the 30th anniversary of the 1967 referendum to consider the benefit to the Australian community as a whole of a document or documents of reconciliation between the Aboriginal and Torres Strait Islander peoples and the wider Australian community; and

(d) undertakes to support the work of the Council for Aboriginal Reconciliation in the fulfilment of its obligations under the Act.

### Nobel Prize for Medicine

**Senator PATTERSON** (Victoria)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) congratulates Australian scientist Peter Doherty for jointly winning the Nobel prize for medicine;

(b) acknowledges the discoveries made by Professor Doherty and Swiss Professor Rolf

Zinkernagel on cell immune defences, which have provided a crucial insight into the immune system and infectious diseases and assisted with the construction of new vaccines; and

(c) commends Professor Doherty's work which has become vital to research into AIDS and cancer.

### Nuclear Warships

**Senator BROWN** (Tasmania)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes that the Tasmanian House of Assembly has resolved to write to the President of the United States of America (Mr Clinton) asking that nuclear-powered or armed warships be banned from Tasmanian waters;

(b) supports the democratic wishes of the Tasmanian House of Assembly; and

(c) calls on the Government to request that President Clinton respect the majority view of the House of Government in Tasmania and call off the proposed visit of the nuclear-powered and armed USS *Carl Vinson* to Tasmania in the week beginning 13 October 1996.

### Economics Legislation Committee

**Senator CHAPMAN** (South Australia)—I give notice that, on the next day of sitting, I shall move:

That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Friday, 11 October 1996, for the purpose of taking evidence on the Industry Research and Development Amendment Bill 1996.

### Higher Education

**Senator STOTT DESPOJA** (South Australia)—I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes, with concern:

(i) that the number of university applications for the 1997 academic year has fallen dramatically in New South Wales, Victoria and the Australian Capital Territory,

(ii) that a drop of 8.25 per cent, or 4 602, in the number of first-round applications has been recorded in New South Wales and the Australian Capital Territory, and

(iii) there has been a 14.7 per cent drop in the number of applications from mature-aged students in Victoria; and

(b) condemns the Government's proposal to increase Higher Education Contribution Scheme charges, which has significantly discouraged many potential and current students from further study.

### Austudy Regulations

**Senator WOODLEY** (Queensland)—I give notice that, on the next day of sitting, I shall move:

(1) That standing order 87 be suspended to allow paragraph (2) of this resolution to be moved without 7 days' notice and to be carried by the agreement of a simple majority of senators present and voting.

(2) That, for the purposes of section 49 of the Acts Interpretation Act 1901, the Senate rescinds its resolution of 10 September 1996 disallowing the AUSTUDY Regulations (Amendment), as contained in Statutory Rules 1995 No. 393 and made under the Student and Youth Assistance Act 1973, to allow new regulations to be made which would be the same in substance as the disallowed regulations.

## ORDER OF BUSINESS

### Disallowance of Regulations

Motion (by **Senator Chris Evans**, on behalf of **Senator Bolkus**) agreed to:

That business of the Senate notices of motion Nos 1 to 6, standing in the name of Senator Bolkus for today, relating to the disallowance of regulations, be postponed until the next day of sitting.

### Community Affairs Legislation Committee

Motion (by **Senator Panizza**, on behalf of **Senator Knowles**) agreed to:

That business of the Senate order of the day No. 7 standing in the name of Senator Knowles for today, relating to the reference of a matter to the Community Affairs Legislation Committee, be postponed until the next day of sitting.

### Aboriginal Reconciliation

Motion (by **Senator Kernot**) agreed to:

That general business notice of motion No. 216 standing in the name of Senator Kernot for today, relating to the presentation of an address to the Governor-General, be postponed until Tuesday, 15 October 1996.

### BHP Petroleum

Motion (by **Senator Margetts**) agreed to:

That general business notice of motion No. 11 standing in the name of Senator Margetts for today, relating to a review of BHP Petroleum's offshore safety arrangements, be postponed until Monday, 14 October 1996.

### East Timor

Motion (by **Senator Brown**) agreed to:

That general business notice of notion No. 182 standing in the name of Senator Brown for today, relating to East Timorese asylum seekers, be postponed until Monday, 28 October 1996.

### Comprehensive Test Ban Treaty

Motion (by **Senator Margetts**) agreed to:

That general business notice of motion No. 221 standing in the name of Senator Margetts for today, relating to the Comprehensive Test Ban Treaty, be postponed until Thursday, 10 October 1996.

## D'ENTRECASTEAUX NATIONAL PARK PROTECTION BILL 1996

### First Reading

Motion (by **Senator Margetts** and **Senator Murray**) agreed to:

That the following bill be introduced: a Bill for an Act to protect land that is or was a part of D'Entrecasteaux National Park from mining and other intrusive activities, and for related purposes.

Motion (by **Senator Margetts** and **Senator Murray**) agreed to:

That this bill may proceed without formalities and be now read a first time.

Bill read a first time.

### Second Reading

**Senator MARGETTS** (Western Australia) (3.52 p.m.)—Senator Murray and I move:

That this bill be now read a second time.

I seek leave to have the second reading speeches incorporated in *Hansard*.

Leave granted.

*Senator Margetts's speech read as follows—*

I am pleased to be able to jointly present the D'Entrecasteaux National Park Protection Bill 1996, to the Senate for consideration although the need for such a bill to be presented at this time gives me no pleasure at all. It is outrageous that the Western Australian Government is reclassifying a portion of a National Park to allow mining to proceed. The Federal Parliament must establish fundamental principles in relation to environmental protection and one of those principles must be that any mining activity in a National Park is unacceptable.

Honourable Senators may recall that during the debate on our recent motion concerning mining in D'Entrecasteaux, Senator Campbell, a Western Australian Senator who is also Parliamentary Secretary to the Minister for the Environment, stated that he agreed ". . . with Senator Brown and many other Senators around this place about the unique values of Lake Jasper, the inherent beauty of the D'Entrecasteaux National Park." It should be noted, of course, that Senator Brown and those other Senators to whom Senator Campbell referred also stated categorically that this mining proposal should not go ahead.

Senator Campbell admitted that the corporations power under Section 51(xx) of the Constitution does exist but he likened it to a Ford GT-HO five-litre V8 engine without an axle. He stated that there is no legislation under the corporations power that would enable the Federal Parliament to take action on the issue of mining in D'Entrecasteaux National Park.

Well here it is! We always knew it was just a matter of framing the legislation. In this case it is a very simple piece of legislation, which provides that mining in D'Entrecasteaux National Park, or any land that was at any time part of the D'Entrecasteaux National Park, cannot take place without the written approval of the Federal Minister. The bill also allows the Governor—General to make regulations to give effect to the act. Ultimately, therefore, the question of Federal intervention on this issue comes down to a question of political will.

Having stated that the Ford V-8 needs an axle, Senator Campbell mentioned a problem of constitutional validity. These issues have been considered by the High Court and by eminent constitutional experts who have all confirmed the broad nature of the corporations power. Justice Wilcox, for example, has expressed the view that ".. it would be possible to prohibit trading corporations adversely affecting items on the Register of the National Estate." Emeritus Professor Leslie Zines, one of the most respected authorities on the Australian Constitution has stated that the Commonwealth may ". . . regulate and control all acts of trading and financial corporations done for the purposes of trade. This includes. . . mining. . . ".

The Greens (WA) would therefore assert that the Federal Parliament has both the power and, with this bill, the legislation to enable action to take place. Indeed, we believe that the Senate now has

an obligation to act, not only as a result of the majority motion to that effect, but because we believe that there is an inherent obligation, for the Commonwealth to act, where States are failing in their obligations to protect the environment.

Why do we believe the Commonwealth is obliged to act?

Whilst this bill focuses specifically on the corporations power, there is also no doubt that consistent with the external affairs power under the Constitution, the Federal Government has obligations to protect the environment. In relation to the D'Entrecasteaux National Park its important biological diversity should be protected in accordance with the Convention on Biological Diversity that has been signed and ratified by the Australian Government.

Ministers from the Western Australian Government have stated that we should feel comforted that any such proposal has to go through both Houses of State Parliament. It already has! The outcome was that 368 ha of the magnificent D'Entrecasteaux National Park was excised, downgraded from an A-Class Reserve to a C-Class Reserve.

There is no biological or ecological rationale for this downgrading.

The WA Government says that any mining proposal is still subject to EPA approval. If that was really the case, surely the excision would have been provisional. It was not. There has never been an application for mineral sands mining which has been rejected in WA. The EPA set conditions. It has become politically too dangerous for them to stand against State Government policy.

The current mining proposal is just the tip of the iceberg for D'Entrecasteaux National Park. Around 7/8 of the National Park is pegged for minerals exploration and I agree with the Minister, Kevin Minson that this is a legacy of the previous State Government. It is no excuse.

There is an agreement to "swap" a piece of degraded adjacent farmland, currently owned by the proponent, Cable Sands, for the excised portion of National Park, BUT NOT BEFORE PART OF THIS PIECE OF FARMLAND IS MINED AS WELL!

There are good reasons why this piece of land was not included in the National Park boundaries originally, but even mining in the south-western corner of this piece of land should receive full environmental assessment because of its proximity to Lake Jasper.

Lake Jasper is the largest permanent freshwater lake in the south-west of Western Australia.

The Conservation Council in Western Australia describe it as part of a ". . . near-pristine, extensive system of freshwater lakes, marshes and shrub swamps, the Gingilup-Jasper Wetland System". The mining proposal by Cable Sands involves mining operations as close as 300 metres from the edge of this important lake. Siltation , pollution and chemical spills and changes to the water table are all potential hazards for the vegetation and wildlife in the wetland system of which Lake Jasper is a part.

Lake Jasper is also the only known underwater Aboriginal archaeological site in Australia. The W.A. Museum have studied this archaeological site and confirmed the existence of Aboriginal artefacts such as stone implements that indicate activity at the site up to eight thousand years ago. This site will also be threatened by the proposed sand mining activities.

It is interesting to note in the context of Aboriginal heritage issues that the National Strategy for the Conservation of Australia's Biological Diversity, which was signed by all State and Territory Leaders as well as the Prime Minister, acknowledges that natural heritage and cultural wellbeing are interlinked. The Strategy document states ". . . the maintenance of biological diversity on lands and waters over which Aboriginal and Torres Strait Islander peoples have title or in which they have an interest is a cornerstone of the wellbeing, identity, cultural heritage and economy of Aboriginal and Torres Strait Islander communities."

The actions to protect Aboriginal and Torres Strait Islander interests as agreed to in Section 1.8.1 of the National Strategy include the provision of ". . . resources for the conservation of traditional biological knowledge through cooperative ethnobiological programs." and to involve Aboriginal and Torres Strait Islander peoples ". . . in research programs relevant to the biological diversity and management of lands and waters in which they have an interest."

In these areas, as far as Lake Jasper is concerned, the WA State Government is falling well short of its agreed obligations.

The importance of the D'Entrecasteaux National Park as a whole is evidenced by the fact that the entire National park was placed on the Register of the National Estate by the Australian Heritage Commission for its important ecological values. If this process is to have any credibility then this parliament must take action to protect any areas that are entered on the Register of the National Estate from the inevitable damage that will occur as a result of mining activities.

I therefore commend the bill to the Senate.

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*Senator Murray's speech read as follows—*

I am very pleased to be a co-sponsor of this very important piece of legislation.

At the last sitting of the Senate, the Australian Democrats were pleased to speak in support of a motion of the Senate condemning the WA State government for opening up access to the D'Entrecasteaux National Park for sand mining.

The Senate motion called on the Howard government to "urgently intervene" to prevent this mining project from proceeding any further.

During the debate, Senator Campbell claimed that, at least until some definite mining application was submitted by the mining company involved, Cable Sands Pty Ltd, which is of course a wholly-owned subsidiary of the Nissho Iwai Corporation of Japan, until they filed a definite application to mine, the Commonwealth had no capacity to take action.

Well, I am pleased to say that that situation is no longer the case.

The Australian Democrats and the Greens (WA) are pleased to be able to introduce a bill, the "D'Entrecasteaux National Park Protection Bill 1996", which gives the Commonwealth the immediate power to prevent this mining project from going any further.

If enacted, this bill would ensure the protection from mining of one of WA's most ecologically, scientifically and culturally important wetlands and national parks.

It would also protect a natural environment of great importance to the growing tourism industry of the South West of WA.

I like so many West Australians am dismayed by the recent moves of the Court government to pave the way for sand mining activity within the Park and in particular within the Lake Jasper wetland environment.

The Court government's recent decision to excise an area of land from the Park was clearly designed as a sop to the mining industry which continues to hold an unhealthy sway over political priorities and decisions in Western Australia.

The Australian Democrats are deeply concerned by what appears to be a nation-wide push by governments, in concert with the more extreme elements of various industries, to open up our already too small national park and nature reserve estate to all types of unsustainable development.

It is alarming that the new Howard government, with Ministers Parer and Hill leading the charge, is promoting the idea of mining in wilderness areas and conservation reserves.

Let us look at the hypocrisy of the Howard government on this front.

In the West Australian of 21 October 1996, Senator Hill is reported to be allocating $400,000 to wetlands research. With reference to the recently released national 'State of the Environment' report, Senator Hill is reported as saying that wetlands are "among Australia's most threatened ecosystems".

He is reported as saying "In some parts of the country we have destroyed more than 70 per cent of the wetlands."

Well, let me inform the Minister that for the South West of WA, where this mine is proposed to proceed, reliable estimates are that we have lost about 75 per cent of the region's wetlands. **75 per cent !**

How can we even contemplate destroying or degrading **any part** of the meagre 25 per cent of original wetlands that have somehow survived until now?

It is simply unconscionable.

Senator Hill has also recently had the privilege of releasing the results of the Australian Heritage Commission's national survey of public attitudes to wilderness and wild rivers. That survey confirms what most of us know already: Australian's, in overwhelming numbers, cherish our remaining wild and natural areas. **REALLY CHERISH THEM!**

They want them protected, not handed over willy nilly every time some entrepreneur comes along with a carpet bag full of cash—or a carpet bag full of promissory notes for cash!

What do people have to do to get through to governments that they don't want developments that are going to compromise and destroy the integrity and amenity of our remaining natural areas?

The D'Entrecasteaux National Park in general, and the Lake Jasper area of the national park in particular, are of enormous value and importance.

Recent research shows that the Lake Jasper wetland ecosystem, which would be irreversibly degraded and destroyed by any sandmining activity in the vicinity, is one of the most important freshwater wetland ecosystems remaining in the South West of WA, with large numbers of waterbird species, endemic freshwater fish species, frog species, aquatic invertebrates, and many other species and plant communities of great importance.

For the information of Senator Hill and his government colleagues, the Jasper wetland system is listed in the latest, most authoritative survey of 'Australia's Important Wetlands', published by the Australian Nature Conservation Agency in 1996.

I recommend that those who have not already looked into this publication do so.

Browse through the report and please think very carefully about how those crucially important listed wetlands, the all-too-scarce survivors of two hundred years of all-too-hasty development, are going to survive intact into the future so that future generations of Australians do not have to wonder

in despair at the magnitude of their loss and the folly of their predecessors.

Please look especially at page 928 and page 929 so that you too can gain some idea of why sand mining in the Jasper wetland system would be unforgivable.

This summary of the importance of the Jasper wetland system states, "The system is effectively a 'biological reservoir' for native freshwater fishes, including seven of the eight species endemic to south-western Australia, because the wetlands are largely isolated from influences that commonly degrade water quality . . . "

The summary goes on to state that the Jasper wetland system is, "An outstanding example of a near-pristine extensive system of freshwater lakes, marshes and shrub swamps including the deepest, large freshwater lake in South Western Australia—Lake Jasper."

I could go on, but it should by now be clear just how important this area is.

To mine in this area would be the equivalent of mining the perched lakes of Fraser Island, or the wetlands of Kakadu National Park.

The proposed mine would undoubtedly cause irreversible disruption to the hydrological system which underpins the Lake Jasper wetland ecosystem.

Any mineral sand mine in the Lake Jasper wetland system would result in the likely contamination of the water system by sediments and by radioactive products, both of which would cause irreversible damage to the wetland ecosystem.

The contamination of aquatic ecosystems by sediments, or clays, is at least as serious a problem, if not more serious, as any possible radio-active contamination.

These clays and sediments, when disturbed, shut out light within the aquatic ecosystem, which in turn kills species and breaks down ecological functioning. This form of contamination can take years to settle, by which time the consequences would be disastrous and irreversible.

I would draw the Senate's attention to the observations of Dr Jenny Davis of Murdoch University, an expert in this field, who is reported in the West Australian of 16 September 1996 saying in relation to the excision of land from the D'Entrecasteaux National Park, "The excision for mining is really upsetting. . . there must be other areas on the southern coastal plain that are as suitable for mining without mining the largest freshwater lake on the plain. . . .Lake Jasper is in near pristine condition. . . I have nothing against mining but in this case I can't see that the profit to come out of mining justifies the destruction of that system."

She goes on to say, "It will take hundreds of years to restore. We are fooling ourselves if we think we can stand on the edge of a water body and say 'that's fine'. . . Even though we are getting good at creating man-made wetlands, these in no way are an adequate replacement for an undisturbed natural wetland. . . "

In economic terms, the Park and Lake Jasper already have established economic values for tourism, with large and growing numbers of nature-based tourists visiting the area. This then has major flow on effects for the local centres such as Walpole, Northcliffe, Pemberton and Augusta.

The impacts of any mine in this area would cause major disruptions and impacts on local communities. It would have a negative effect on the burgeoning nature-based tourism industry, and it would also cause a massive further impact in terms of the transport, by road, of the mineral sands. The lower South West is already reeling under the effects of increasing road transport related to sand mining and any new mine in this area would be extremely disturbing for local communities.

The transport by heavy trucks over long distances of mineral sands will spread the impacts right through the lower South West and up to Bunbury. This will all have consequences for the flourishing tourism industry.

Recent sand mine approvals at Jangardup and Beenup, both in close proximity to the D'Entrecasteaux National Park, have provoked great fear and anger amongst local communities because the push for mineral sand mining across the south coast is so clearly at odds with the lifestyle and the best long term economic and social interests of the South Coast community.

All surveys show that the reasons tourists like to visit Australia in general, and the South West of WA in particular, is because of the relatively unspoiled natural environments still to be found. Destroying such areas is just folly, the same folly that was immortalised in the fairy tale about the goose that laid the golden egg.

By its passage of this bill, the WA State government is demonstrating its disregard for the environment, for national parks, for areas listed on the register of the national estate, for the tourism industry of the South West of WA, and for the principles of ecologically sustainable development.

By passing this bill, the WA government is saying that it is prepared to subject the community of WA to all the anxiety and trauma and needless expenditure of time and energy that will be required to ensure that mineral sand mining does not proceed in this most remarkable of natural areas.

It is important that this Parliament discuss this matter at this time so that the Federal government can act quickly to head-off what will otherwise be

a protracted conflict between the WA community and the mining industry which will in turn bring discredit upon the mining industry and on the mining company involved: Nissho Iwai Corporation of Japan.

It is urgent that this government take action **now.** This government must immediately make it clear to the WA government and Nissho Iwai that it is serious about its expressed commitment to the environment.

I think I know what the government will say in response to this bill, in order to portray itself has having some environmental credibility.

It will say, 'Oh yes, this bill may do the job, but it is unnecessary, because no mining will proceed without extensive environmental assessments taking place'. Well, that is just a cop-out. There is no way that a mine in this area could be found, after proper studies, to be ecologically sustainable or in any other way sufficiently advantageous as to outweigh all the costs involved.

The already existing scientific research and knowledge and expressions of concern coupled with the already existing level of expressed support by the community for the protection of national parks and the natural environment coupled with the already existing economic and social value derived from the Park and from the Lake Jasper together make any further contemplation of mining in this area a reprehensible waste of time and money and an unwarranted burden on community and government resources.

If this government is at all interested in showing leadership and looking after the interests of 'mainstream Australia', here, with this bill, is its opportunity to meet both objectives. I sincerely hope that the government will accept this opportunity.

I therefore commend this bill to the Senate.

Debate (on motion by **Senator Panizza**) adjourned.

## MATTERS OF PUBLIC IMPORTANCE

### Treasurer: Visit to the United States of America

**The DEPUTY PRESIDENT**—The President has received a letter from Senator Sherry proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The intemperate remarks of the Treasurer (Mr Costello) which have severely damaged Australia's reputation overseas through his arrogant breach of confidence regarding the private briefing given to him by the Chairman of the United States (US) Federal Reserve, Dr Greenspan, and the Treasurer's breach of accepted standards of ministerial behaviour through his continual denial that he had made any public comments regarding Dr Greenspan's views on US interest rates when the public record shows that he did.

I call upon those senators who approve of the proposed discussion to rise in their places.

*More than the number of senators required by the standing orders having risen in their places—*

Before I call Senator Sherry, I understand that informal arrangements have been made to allocate specific times to each of the speakers in today's debate. With the concurrence of the Senate, I shall ask the clerks to set the clocks accordingly.

**Senator SHERRY** (Tasmania—Deputy Leader of the Opposition in the Senate) (3.54 p.m.)—Regrettably, this country has an out-of-touch, arrogant and boastful Treasurer. The office of Treasurer, many would argue, is politically the second most important position in government in this country today. On many occasions, the office of Treasurer of a country is, in fact, more important than that of the Prime Minister because the Treasurer is the principal economic spokesperson for the government, and certainly the most important individual in this country when it comes to economic matters.

It is not lightly that we raise this issue today. This is the second occasion in six months on which we have had to raise an MPI regarding the Treasurer, Mr Costello, and his behaviour. I said in my introductory remarks that he is an out-of-touch individual, he is an arrogant individual, and he is a boastful individual. These characteristics got him into very serious trouble in the United States in respect of comments he made about US interest rates.

This is not the first occasion; the previous MPI concerning the Treasurer—I will reflect on this in some detail a little later—related to his comments in the lead-up to a Premiers Conference. Unfortunately, this Treasurer has a habit of putting his foot in his mouth, with very serious consequences for this country.

Three serious consequences flow from the behaviour of the Treasurer in the United States a week ago. Firstly, he broke a confi-

dential discussion with arguably the most important economic figure in the United States and arguably one of the most important economic figures in the world today—Dr Greenspan. The Treasurer broke the confidential discussions that took place in that meeting.

Secondly, by breaking those confidential discussions and making public utterances that should not have been made, he caused the various money markets in the United States and round the world to soar. There are serious consequences flowing from the Treasurer's comments in respect of money markets.

Thirdly, and certainly most importantly and seriously of all, when confronted with evidence that he had made these remarks, breaking the confidence of the meeting with Dr Greenspan, he denied it. Despite tape recordings and, indeed, a film clip showing that he had made the remarks, he denied that he had.

What were the remarks that Mr Costello made? I will come to those a little later. A number of people observed Mr Costello's remarks. Before he made the fateful remarks, the media observed him at a press briefing that he gave—he was all very gung-ho to do press briefings up to the point of making his comments with regard to Dr Greenspan.

He was described as being in an 'ebullient' mood. The *Age* reported that he, Mr Costello, had spent a satisfying day with Dr Greenspan:

> He had enjoyed a very satisfying day in the big time and was only too delighted to share it. How was he to know—as he happily munched . . . drank coffee and chatted—that he was about to rally the US bond market and help push Wall Street to its highest level ever?

Mr Costello, of course, had been touring the United States, putting on the record the strengths of the Australian economy. I might say that much of the strength of the Australian economy has weakened since the budget. Certainly, much of the strength of the Australian economy is the result of Labor's legacy and hard work in 13 years in government. The *Australian Financial Review* referred to Mr Costello as the mythical Greek god Icarus, and, like Icarus, Mr Costello crashed to the ground last Thursday when he ventured too close to the sun.

What we saw from Mr Costello is typical of the Costello arrogance that has become second nature to him. As he flitted around the United States trying to impress the economic and financial markets, and as he went to the IMF conference trying to bask in the 'glories' of our economy, he did not acknowledge, of course, that the strong economic growth of the last three years—the low underlying inflation rate; the 700,000 new jobs that had been created, reducing unemployment by 2.85 per cent; the second lowest taxing country in the OECD, second to the United States in respect of spending as a percentage of our gross domestic product—was the legacy of Labor. He tried to take all the credit, basking in all the glory. But he brought himself undone. It is not uncommon, and I am sure that Senator Short, when he took his trip to Japan or the Philippines—

**Senator Short**—The US, actually.

**Senator SHERRY**—You were in the United States again. I will come back to your visiting the United States when I conclude my remarks, and you will be flattered by what I say, Senator Short. When economic spokesministers and ministers in general go overseas, they do need to be involved in confidential discussions with heads of government. That is accepted. It is very important for our ministers to be involved in confidential discussions: it is not only what you can do on the record but also it is the messages and the negotiations that occur off the record that are very important for this country's future. I do not think anyone would have believed that a treasurer could go into a meeting with Dr Greenspan and come out telling the world some of Dr Greenspan's views and comments.

What we have here is a Treasurer who has breached the confidence and the understandings that should be observed by an Australian minister and, as far as I know, have been observed by all Australian ministers and Prime Ministers, certainly in the last 20 or 30 years that I have been involved in politics. But he breached those confidences following his meeting with Dr Greenspan. What did Mr Costello say? He said that Dr Greenspan:

. . . was very optimistic. He indicated to me that he saw no threats to inflation down the track. I don't think there is any expectation at the moment that (US) rates are going to rise.

That was what Mr Costello said in a clear and direct reference to the views of Dr Greenspan. As I said earlier, Dr Greenspan is certainly one of the most important economic spokespersons, if not the most important, by virtue of his position in the United States and, certainly, in the world, arguably second only to the President of the United States.

Mr Costello, with his arrogant and gung-ho manner, in order to mix it with the Wall Street and economic financiers and ministers and impress them all, blurted out these comments at a media conference. I might say that he was very keen to give this media conference. Wherever he went, he had the media trailing him and he was very keen to give Mr Costello's view of the world, the Australian economy and, particularly on this occasion, the US economy.

What happened as a consequence of Mr Costello's breach of confidence at this meeting? As I said earlier, the markets certainly moved. They went up like a rocket. The graph in the *Age* newspaper of the US benchmark of the 30-year bonds for that day shows that, up until 1.30 in the afternoon when Mr Costello's remarks were made public, it was running very flatly and, at 1.30 when Mr Costello's comments became public knowledge in the United States, up it when like a rocket.

I am not going to quote the politicians or economic commentators in Australia. The Australian head of trading for the US bank Chase Manhattan said that it was very unusual, to say the least, to quote Dr Greenspan after a meeting. Worse still, a bond trader from a large investment house in the US was quoted as saying, 'All the US banks are asking what the hell is going on.' Worse still, the Australian head of trading for Chase Manhattan said, 'I think it took a while for people to work who the hell Mr Costello was and what he was doing talking about Greenspan so bluntly.'

**Senator Ferguson**—They don't know who Nick Sherry is.

**Senator SHERRY**—Well, they certainly do not, and I am pleased that I will not make the world stage, although, according to Senator Short, my utterances about superannuation have rocked the entire industry. So I will be flattered by Senator Short's comments.

**Senator Conroy**—Single-handedly.

**Senator SHERRY**—Single-handedly rocking the superannuation industry in this country by my criticisms of recent government measures. But there is one comment—

**Senator Short**—You'd better stay onshore.

**Senator SHERRY**—I am coming back onshore. Jeff Kennett, the Premier of Victoria, said that the upside was that the world would now know the identity of the Australian Treasurer. The effect of Mr Costello's comments on the markets was so profound that you have to wonder whether he is, in fact, a secret member of the re-elect Clinton campaign. I think President Clinton would certainly have been pleased to see the market soar and rocket to record levels as a consequence of Mr Costello's comments.

But worse was still to come. Mr Costello, having made these comments on the public record—tape recorded and filmed—denied that he said them. Of course, what is interesting, is: what was Mr Howard, the Prime Minister, doing? Significantly, during this event, Mr Howard, the Prime Minister, was saying absolutely nothing to rebut or rebuke Treasurer Costello.

Mr Costello went on to say, time and time again, that he had not divulged any confidential information. He said, 'I was reporting my own assessment.' He went on to say that reports of his comments were fanciful. He said that, in the situation, when properly understood, nothing spectacular had happened. The bond market had only gone up like a rocket at 1.30 after his comments were made public.

Mr Costello then tried to avoid the issue again by saying that it was only a big issue in Australian newspapers, stating 'the incident is only big news in Australia'. Mr Costello ought to have a look at some of the international newspapers, such as the *Financial Times* and the *Wall Street Journal*. They

certainly gave it extensive coverage. When questioned about whether he did not or did not divulge information, he further said:

No, no, no. I have made it entirely clear I am not giving out views on interest rates. We look at published data, we make observations. We're not giving out any views on them.

But what did Mr Costello say on the public record? He said, referring to Dr Greenspan:

He was very optimistic. He indicated to me that he saw no threats to inflation down the track. I don't think there is any expectation at the moment that US rates are going to rise.

What we have, regrettably, is an arrogant, out of touch Treasurer who, touring the United States, anxious to prove his so-called economic credentials and credibility, gung-ho, really put his foot in his mouth.

Mr Costello has denied saying what he said, and it is clearly on the public record that he has misled us—and I could use a harsher word. The code of ministerial responsibility is very clear:

Ministers should ensure that their conduct is defensible, and should consult the Prime Minister when in doubt about the propriety of any course of action.

Also:

Any misconception caused inadvertently—

and it certainly was not inadvertent on this occasion—

should be corrected at the earliest opportunity.

*(Time expired).*

**Senator SHORT** (Victoria—Assistant Treasurer) (4.09 p.m.)—Today we have seen a quite pathetic attempt, first at question time and now in Senator Sherry's speech in this debate, to make an issue of a matter which is not an issue for anyone other than the Labor Party and a few members of the media. Quite frankly, I cannot recall a more pathetic attempt to beat up a non-issue than Labor's performance today. It was absolutely monumental in the incompetence of its presentation and appalling in its paucity of substance. Senator Sherry and Labor well know how lacking in any substance it is by virtue of the fact that, if they were really fair dinkum today, they would have moved this as an urgency debate so that there would have to be a vote on it. What did they do? They just made it a run-of-the-mill matter of public importance—

**Senator Ferguson**—To fill in the afternoon.

**Senator SHORT**—As Senator Ferguson says, to fill in the afternoon. With something you claim to be such a fundamentally important thing, the very fact that you did not even see sufficient significance in it to make it an urgency debate I think is the starkest possible evidence that, on your own decision—on Labor's own decision—you knew you had no case to put. Labor's heart just simply is not in it. I think Senator Sherry has been told to rattle up an MPI here today on the Treasurer, and he has said, 'Well, okay, boss, I'll have a go at that.' But by gee, I hope the boss does not watch Senator Sherry's performance on television or read the transcript because he will be mightily disappointed.

The actual substance of the matter of public importance indicates, I would surmise, a very hastily cobbled together wording. It is very long; it wanders all over the place. We have got rid of garrulous Gareth to the other place, and I think garrulous Gareth's place has been taken by nitpicking Nick—because that is about all today's performance is, and the wording of the MPI is stark evidence of that.

As the Treasurer (Mr Costello) said last week, he does not possess—and he said it; he has said it over and over again—any special knowledge on what will happen to interest rates in the United States, nor did he ever purport to have such knowledge.

**Senator Jacinta Collins**—No, he just referred to Greenspan.

**Senator SHORT**—If any comments made by him have been interpreted otherwise, then they certainly should not have been.

**Senator Jacinta Collins**—Even you've got the grace to laugh.

**Senator Sherry**—Madam Acting Deputy President, I raise a point of order. Would Senator Short, in defending Mr Costello, please treat this with the seriousness it deserves. He is laughing.

**The ACTING DEPUTY PRESIDENT (Senator Patterson)**—There is no point of

order. Senator Sherry, you know that is a frivolous point of order. There is no point of order. I would ask the honourable senators on my left to refrain from interjecting. Senator Sherry was heard in silence, and I ask that you hear Senator Short in silence.

**Senator SHORT**—Thank you, Madam Acting Deputy President. The fact is that Treasurer Costello last week undertook a very successful visit to the United States. He made a very important contribution to the deliberations of the annual meetings of the International Monetary Fund and the World Bank. He participated in important meetings in Washington with a wide range of financial leaders of other countries. He had a very successful visit to New York after Washington, meeting with a wide range of financial institutions. He gave a very important address to the Asia Society, which was very well received—and I know that for a fact. He impressed everyone with an extremely good performance on his first official visit to the United States as the Treasurer of this country.

As for the true picture, if you really want to look at where Australia's international reputation has been damaged, you only have to look at the Labor Party when they were in office. It was the Labor Party in office that caused enormous damage to our international reputation and standing. You cannot cause much more damage to a nation's standing than to oversee such a major increase in foreign debt, as occurred during Labor's 13 years in office. It was then that net foreign debt blew out from $23 billion to $185 billion. It went from 10 per cent of GDP—a thoroughly manageable, proper and prudent proportion of GDP—to 39 per cent.

When you get yourself in so much debt to the rest of the world that has a very damaging impact on the sovereignty of the nation and on the nation's independence. In terms of damage done to Australia, you cannot look beyond the previous Labor government. We also saw Labor continuing its oversight of high current account deficits. During Labor's 13 years in office Australia had the highest ratio of current account deficit to GDP of any country in the Western world. Australia was the only country during those 13 years which could not record even one current account deficit of less than three per cent of GDP.

During Labor's term in office we witnessed the indignity and the cost of two downgradings of our international credit rating. First we lost our triple A credit rating in December 1986 when the current account deficit blew out and we were in the grips of banana republic fever and then we were downgraded again from double A-plus to double A in December 1989.

That bears with it not just damage to our reputation but also a cost. That means there is a risk premium built into the interest rates that Australia has to pay on its overseas borrowings and that has to be sheeted home and can only be sheeted home to the incompetence of the previous Labor government and the damage it did to our international credit rating reputation.

The former Prime Minister, Mr Keating, when he was Treasurer absolutely shocked the international community with his comment that he had the Reserve Bank in his pocket. At a time when central banks around the world were being given increasing independence—and it was being seen increasingly important to central banks around the world to have that independence—the former Prime Minister then Treasurer knew or should have known that his comments would cause a very adverse reaction in the financial markets, and they did.

This government's policies have been very well received internationally. Our responsible fiscal strategy contained in the budget has been overwhelmingly endorsed by the international financial markets. Our charter of budget honesty makes Australia a world leader in terms of transparency and discipline in fiscal policy. Through the government's exchange of letters with the Governor of the Reserve Bank we have increased the independence of the Reserve Bank and enhanced our international standing thereby.

Our industrial relations reforms have also been well received internationally as both welcome and long overdue and there has been very encouraging foreign interest in our policy to part privatise Telstra. The great regret is that Labor, after damaging our

international reputation when they were in office, now seems to want to stop the government from rebuilding this country's reputation through our policies which have been so well received overseas.

We all know that the international financial markets have been very impressed with this government's responsible policies, particularly our budget strategy. However, what does Labor want to do? It seems determined to try to torpedo that budget strategy. They want to keep us on the high deficit high debt treadmill. Labor wants to prevent reform of our arthritic international relations system. It wants to stop the part sale of Telstra. It is an opposition that wants to continue with its failed policies of the past.

**Senator KERNOT** (Queensland—Leader of the Australian Democrats) (4.19 p.m.)—There are two issues in this matter of public importance. One is what the Treasurer, Mr Costello, said overseas and the second is how he handled the public revelation of what he said. I think that takes us to the notion that there formally exists an accepted standard of ministerial behaviour. I have been around only six years but long enough now to witness both a Labor and Liberal government from which I think some inescapable conclusions can be drawn.

There are two quite separate and quite distinct sets of ministerial standards. One is the public up-front standard contained in documents like the draft code of ministerial conduct, which senators have already quoted from today. This document, in one form or another, has been around this place for about seven years now. It has not yet been formally adopted. The other standard is the one set by the previous Labor government, which I think is now being assiduously followed by the Liberal government. That code of ministerial conduct basically goes like this: deny everything at first and tough it out no matter what the evidence.

The last draft of the code, the framework of ethical principles for ministers and presiding officers, has at point 2 the heading 'Honesty'. It reads:

> Ministers and the Presiding Officers must be frank and honest in their public dealings and in particular must not mislead intentionally the Parliament or the public.

It goes on:

> Any misconception caused inadvertently by a Minister—

I agree that this was hardly an inadvertent action—

> or Presiding Officer must be corrected at the earliest opportunity.

So that seems quite straightforward. Under that standard, it would seem inescapable that yet another minister—in this case Treasurer Peter Costello—has breached the draft code. I say 'yet another minister' not just in regard to this government but also in regard to the previous Labor administration because we do remember Carmen Lawrence, Ros Kelly and Graham Richardson and the debates we have had in this place about ministerial accountable. Under the coalition government I believe we can add Treasurer Costello, foreign affairs minister, Alexander Downer, and communications minister, Senator Richard Alston.

I want to look at these contemporary examples. I think it is relevant because Prime Minister John Howard is the one who raised the high jump bar of acceptable parliamentary standards in his Governor-General's address in opening this parliament on 30 April. On the basis of the evidence presented from first-hand accounts in the media, there is no doubt that Treasurer Costello trotted out beaming from his confidential meeting with the chair of the US Federal Reserve and he blabbed, not exactly in the terms of the *Financial Review* as first attributed but he did blab. He could not help himself. When strutting the international stage I think there is always a big temptation to take oneself and one's status very seriously.

As Treasurer, Mr Costello would have known—he should have known—that this was a big mistake. He should have kept this exuberance in check. The jury is out, I think, on the damage that has been done. Certainly I believe it has done damage to Mr Costello for future meetings—not just in the United States, but also elsewhere in the world. I guess there is another matter of what damage it has done to Australia's international reputation.

Once Mr Costello's comments hit the papers, instead of admitting that he may have been a little overexuberant, he said some things he should not have. The test, we should ask, is: what did Mr Costello do? Well, he denied that he said anything in the first place. The comments attributed to him in the *Financial Review* were 'fanciful', he said. So he followed the tried and true method of 'if in doubt, claim to have been misquoted'.

Journalists who were there produced a tape of what he said and the tape confirmed the direct quotes in which Mr Costello can be heard to say he 'closely questioned Mr Greenspan on whether he could see any threat to the inflation outlook in the future' and that Mr Greenspan 'indicated to me that he saw no threats to inflation down the track'.

As we all know, inflation is one of the primary determinants of interest rates. Mr Costello went on to say that he did not think there was 'any expectation at the moment' of a rise in US interest rates and that Mr Greenspan 'indicated to me that there was no reason to expect a change on the current scene as he sees it'. So really, that all adds up to a pretty open-and-shut case of commenting on interest rate expectations in the United States.

But the evidence was not enough to stop Peter Costello. He still denied that he had commented on United States interest rates. I am indebted to Senator Sherry for the suggestion that the Prime Minister should send Senator Short and Senator Gibson overseas because we could be certain that they would not say anything.

**Senator Ferguson**—Very kind.

**Senator KERNOT**—Meant kindly. Denial is, of course, one of the stages of grief. Anger is another stage. No doubt we saw expressions of Mr Costello's anger at the media, but I am doubtful as to whether another step in this normal process, the step of acceptance, is close at hand, although I think we should acknowledge that today in question time in the other place Mr Costello made some sort of qualified acceptance of the criticism directed at him. It was not a full acceptance, though. It was a qualified acceptance which revolves around a contention that his remarks were 'misinterpreted'. He will not say straight out, 'Yes, I was wrong. I did say those things. It was intemperate, it was a mistake and I am correcting the public record.' What he did in qualifying his comments was adhere to the other code of ministerial conduct, the 'tough it out' one.

I think I should mention in passing Senator Richard Alston's attitude to this code of ministerial conduct. During the election campaign Senator Alston, and indeed Prime Minister Howard, clearly and unambiguously promised a public inquiry into media ownership. They made it a very clear point of distinction between the coalition and Labor. On the *PM* program on 1 February, Senator Alston said:

> We want to have a public inquiry so people can make submissions on the appropriate structures. . .

He said that after having accused Labor of wanting to keep the matter 'in private, so they have a blank cheque to favour their mates after the game'. The then Leader of the Opposition said at the release of the coalition's communications policy on 23 January:

> There will also be interest in the commitment of the Coalition to have a public, and I underline the word public, inquiry into the appropriateness of cross-media rules.

**Senator Ferguson**—What has this got to do with the MPI?

**Senator KERNOT**—Because this is about ministerial standards and accountability and the difference between what you say, how you can tough it out, and what you say when you are found out. I think it is totally relevant. We find that there will be no public inquiry. We find yet another breach of standards. People are entitled to change their minds, I suppose—we should always be willing to acknowledge that—but when does that changing of mind happen? Does it happen after talking with mates? Does it happen after somebody leans on you? Instead of saying, 'I got it wrong,' or, 'I changed my mind,' what do we get? We get a denial. We always get a denial. I think the conclusion is that there is the same kind of instincts of ministers in this government as there were in the previous government.

**Senator Ferguson**—You will never be a minister, so you don't have to worry about it.

**Senator KERNOT**—Well, we'll see about that. That instinct is to adopt the second code: the 'tough it out' one. That is why we are still waiting for the official adoption of the framework of ethical principles. It seems on all the evidence so far to the Democrats that in matters of public honesty this government is no different from the last. The fact of the matter is that the faces and the bodies might change sides, but the script remains the same.

**Senator GIBSON** (Tasmania—Parliamentary Secretary to the Treasurer) (4.29 p.m.)—I find it hard to take this motion of Senator Sherry's very seriously. The matter of public importance debate is generally set aside as an opportunity for this chamber to debate matters of substantial importance and significance to the people of Australia. It is an opportunity to reflect on the issues that affect everyone and it is an opportunity for the opposition to raise those issues that they believe are of concern to the community at large, what they believe affects the lives of ordinary people—everyone's lives, if you like. Given the strategic and symbolic importance of the MPI, Australians should expect that only those matters which truly touch on the wide fabric of society should be raised in debate at this time.

What, according to the Labor Party, is the most important matter impacting on Australian society today? Would it be unemployment? Not likely, from the Labor Party which gave Australia a million unemployed. Would it be interest rates? Of course not. How could Labor debate interest rates when the former Prime Minister and Treasurer and his Labor government used massively high interest rates to cripple Australian industry and destroy thousands of jobs in the recession the Labor Party, and the Labor Party alone, thought we had to have?

Are we debating government debt? No. Why not? Does anyone think Labor would want to debate government debt when over the past five years they have managed to jack up debt by over 300 per cent. At the time they were kicked out of government, they left Australia with the Commonwealth government debt of $106,000 million. Five years earlier it had been $35 billion. The interest bill per year on that debt is currently running at $9.3 billion per year.

Are we debating taxes and government revenue? No. The shadow Treasurer believes there is scope to tax Australians more. Gareth Evans, the member for Holt and the shadow Treasurer, thought, even though the government is just eight months in office, that we should be increasing taxes, Australians should be paying more taxes.

**Senator Kemp**—Astonishing comment!

**Senator GIBSON**—Extraordinary comment from the shadow Treasurer. Why did he not expressed this view when he was in government earlier this year? Mr Gareth Evans believes that Australian taxpayers are getting off too lightly and they must have a chance to pay more taxes. Why is not Labor debating the level of tax in Australia? No, we are not doing that.

If not unemployment, if not interest rates, if not debt or taxes, why not raise immigration as a matter of public importance—a subject which currently is of massive public interest, according to the opinion polls? Of course, the Labor Party has just done a preference deal with the Australians Against Further Immigration Party in an attempt to stitch up the Lindsay by-election. So we should not be too surprised that it does not want to debate immigration today.

So what is the most pressing matter of public importance according to the Labor Party? Apparently, the Labor Party believes that comments made by the Australian Treasurer (Mr Costello) in a foreign country nearly seven days ago are of such importance to the wellbeing and the general economic and social prosperity of Australians as to warrant a one-hour debate in this chamber on the first day of a sitting fortnight.

How important are these comments to Australians? Let us consider what possibly happened as a result of the Treasurer giving his opinion—and I stress 'his opinion'. I quote the question put to him: 'What is your expectation in the US as far as interest rates go?' I say that these things only possibly

happened as a result of reports of the Treasurer's comments. I think it is a bit far to ascribe his comments sole responsibility for what actually happened.

What did happen? The share market soared—good news for investors and companies, good news for investment and good news for jobs for Australians. Bond prices rose—good news for Australia's public debt. Interest rates went down—good news for average Australians holding loans. These were some consequences of the Treasurer's comments.

Under Labor, it was not acceptable to improve Australia's economic position; only doom and gloom was acceptable. The fact of the matter is that the Treasurer's comments were his own opinion and he was answering a question which asked for his opinion. The consequences of his remarks were both transitory and have now passed into history.

This motion is a travesty and an insult to the Australian people. The Treasurer's remarks in America last week are not a matter of importance to the people of Australia today. I remind members of the party opposite that they were the party which took us through troubles, particularly the last four or five years. They were the party in the last four years that increased revenue from the Australian community, taxes and charges from the Australian community, by 30 per cent—from $95 billion to $122 billion over four years.

**Senator Kemp**—What was that?

**Senator GIBSON**—By 30 per cent over four years.

**Senator Conroy**—Did the economy grow by four per cent?

**Senator GIBSON**—No, the economy did not grow anything like 30 per cent over four years. There was a 30 per cent increase in taxes and charges over four years.

The previous government also sold off $9 billion worth of silver in that period of time; Qantas; the first half of the Commonwealth Bank, et cetera. They increased Commonwealth debt from $35 billion in the middle of 1991 and left us with $106 billion at the end of the last financial year. There was an increase of over $70 billion in debt over that period of time.

What is even worse is that they even stopped investing in infrastructure. The Commonwealth used to invest heavily in infrastructure, but not in the last year of the Keating government. They had negative investment in infrastructure. So no wonder the financial markets applauded when there was a change of government earlier this year.

As a small measure of what has happened, the financial markets of the world judged the Labor Party government a year ago with the risk premium on 10-year bonds of 2.2 per cent. What is it today? Since we have come into power, the risk premium on 10-year bonds has come down gradually and today it is close to one per cent—a difference of 1.2 per cent. That difference basically affects all Australians—lower costs for everyone and an improved investment climate for everyone. We have an outstanding Treasurer who has done an outstanding job and that is recognised by the financial markets of the world.

**Senator CONROY** (Victoria) (4.36 p.m.)—I would like to reconstruct the events that took place in Washington last week because it seems that senators on the other side of the chamber are a bit oblivious to them. I would like to start with Jennifer Hewett's column. She was at the press conference and described the Treasurer in the following terms:

> An ebullient Peter Costello fairly bounced into his informal evening press conference with a gathering of Australian journalists in Washington.
>
> He had enjoyed a very satisfying day in the big time and was only too delighted to share it. How was he to know—as he happily munched pretzels, drank coffee and chatted—that he was about to rally the US bond market and help push Wall Street to its highest level ever. Ooops.

Mr Costello was asked by Michael Stutchbury, 'What would be your expectation in the US so far as interest rates go?' And here is his answer:

> Well, I don't think there's any expectation, at the moment, that rates are going to rise. You know, they had their meeting, when was it, last Tuesday? And you would have seen that there was intense speculation that there was going to be a rate rise even then, and of course there wasn't.

So he was asked specifically about US interest rates, and he gave an answer. I will return to that later. If he had had the good sense to shut up then, he would have been okay. But he could not resist. He went on to say the following:

*He*—

Greenspan, whom he had just met with—

indicated to me that *he* saw no threats to inflation down the track. The only point you could see developing would be if wages grew strongly, but for an economy which is running virtually full employment you don't see a build-up of wage pressures. So *he* indicated to me there was no reason to expect a change on the current scene as *he* sees it.

This was in a period of extreme sensitivity in the US markets, as he had already acknowledged in an earlier answer. When the Treasurer's remarks hit US dealers' screens, a number of events took place. That is highlighted, as Senator Sherry showed earlier. I highlighted it in green, just in case you did not see it the first time. That is what happened—wham, it went straight upwards.

The Australian Embassy in Washington was deluged by calls from the US media wanting to speak with the Treasurer. They wanted a copy of his movements. They wanted to know where to track him down. Australian Embassy staff explained that they were not at liberty to reveal them. He had gone to ground. He knew what he had done.

Bond traders all around the world called US investment banks wanting to know, 'Who the hell is this Costello bloke?' The Dow Jones index hit record levels of more than 5,900 points; the Australian dollar gained almost half a US cent; the yield on the benchmark November 2006 bonds fell nine basis points—a 2½ year low; and July 1999 bond yields fell four basis points.

So what happens next? When the Treasurer is confronted with this, he responds with, 'I never quote on other countries' interest rates. That's fanciful.' He was answering a question that was asked about US interest rates. So there is his first lie: 'I never quote on other countries' interest rates.'

**Senator O'Chee**—Madam Acting Deputy President, I rise on a point of order. The honourable senator on the other side has just accused the Treasurer of lying. That is quite unparliamentary and I suggest it be withdrawn.

**The ACTING DEPUTY PRESIDENT (Senator Patterson)**—Senator Conroy, I ask that you withdraw that comment.

**Senator CONROY**—I withdraw. He went on to say, 'I was not giving out any special info that is not publicly available to you.' When the movements in the bond rates and all of the other things were pointed out to him, he said, 'There is nothing to that. Financial markets move all the time.'

So he has misled the public not once but twice: first, he claimed that he does not talk about overseas interest rates and, second, he said that he had not described his discussions with Dr Greenspan. This behaviour made the *Wall Street Journal*, London papers and even caused a bit of a flurry in the Japanese market as well as in the Australian markets. This has been described in the following terms by a range of economic analysts. 'The guy's famous. He's the talk of the bond market,' said one US economist. BT global market economist said, 'Costello's comments had been unique and had been made at a particularly sensitive time for markets.' GIO's chief economist said that the Treasurer had committed a serious breach of confidentiality.

But the Treasurer was not finished. He continued to deny these events took place. I ask the Senate: did the Treasurer attend that same famous corroboree that Alexander Downer attended, when he said that he was tired and emotional before he misled the Australian public? What was the reaction of Dr Greenspan and his office? It can be best summed up by one of his staffers, who was overheard muttering as he walked away, 'I hope he's not expecting a return invitation.'

The Treasurer was on a real roll at this stage. When he was asked, he started to talk about what the performance would be on Australian interest rates. I have to read this one, because this is a gem. Speaking about the general state of the Australian economy during a speech in New York, Mr Costello said, 'I think that is reason enough for Santa Claus both this year and next year.' He talked

about Santa Claus when asked about interest rates. When asked what he meant by 'Santa Claus', he would only add that Santa Claus was a fellow with a big red uniform who puts presents in people's sacks. Earlier in the day he had said, 'We don't—

**Senator Kemp**—So?

**Senator CONROY**—I am coming to that. Earlier in the day, he had said, 'We don't set our monetary policy by reference to the US. We have a very open, transparent monetary policy.' So there you have it: the Australian Treasurer on the one hand stating that we have a very open, transparent monetary policy but on the other playing a game with financial journalists by talking about Santa Claus.

This is the sort of behaviour that the Treasurer embarrassed Australia with while overseas. It was an absolute disgrace. What did a few people in Canberra in the government think about it? One government minder said, 'The lights came on and the trousers were around their ankles.' That is one of your own minders—

*Senator Jacinta Collins interjecting—*

**Senator CONROY**—That is right. It was not Malcolm Fraser. That is one of your own minders trying to explain what Costello was up to.

**Senator Bolkus**—That raises more questions.

**Senator CONROY**—That is right. It is a situation where the Prime Minister (Mr Howard) has been silent. There has been some speculation that the Prime Minister is quite pleased to see his arrogant Treasurer take a bit of a tumble.

**Senator Bolkus**—Does he admire him or respect him?

**Senator CONROY**—He does not admire him or respect him. That is obvious. The Prime Minister is a bit upset about not being admired and respected by his Treasurer. So we look forward to their ongoing friendship. I look forward to hearing the government try to defend Senator Costello's comments—

**Senator Ferguson**—Senator Costello! Don't elevate him.

**Senator CONROY**—Sorry, it is Mr Costello. Don't elevate him—hear, hear. That is right. We should be sending any of the three senators from the government side, the ones who are in the chamber at the moment, overseas because they are guaranteed to cause less embarrassment to the country than our current Treasurer. He really should resign.

**Senator FERGUSON** (South Australia) (4.44 p.m.)—This would have to be about the most pathetic attempt at an MPI that I have heard in this place for a long, long time. There has been so much enthusiasm from the opposition side that, for most of the time that the opposition senators have been speaking, we have not even been graced with the presence of the shadow minister. That is how much he thinks of the current debate. We saw Senator Sherry go on for 15 minutes. Why on earth they did not introduce three speakers and give half of Senator Sherry's time to somebody else, I do not know.

It is pretty obvious that, as far as the importance of this debate is concerned to the opposition, it was a matter of filling in the afternoon; and, to fill that in, they had decided that Senator Sherry and Senator Conroy could carry the bat and everybody else would just be elsewhere. Senator Sherry, who raised this MPI—with such enthusiasm, I might add—did not stay very long. He could not wait to get out. He did not want to hear what Senator Conroy had to say either. One of the things that Senator Sherry did say in his opening remarks was that we have got such a strong economy because it is Labor's legacy. I would have to admit that Labor's legacy is a bit of a record. We had record debt; we had record unemployment—

**Senator Kemp**—Record interest rates.

**Senator FERGUSON**—Record interest rates. I think we had two downgradings of our international credit rating over the recent short period of time. We had a former Prime Minister who did not have to go out of the country to shock the international community. He did it at home by saying that he had the Reserve Bank in his pocket. We all know exactly what effect that had on the international community. That is of course nothing compared with his comments about recalci-

trant prime ministers like Dr Mahathir, which he refused to apologise for, if I remember rightly.

**Senator Kemp**—Too much trampolining.

**Senator FERGUSON**—Yes. He was very high on the trampoline when he got to that one. When you talk about damaging international standing and when we talk about Labor's legacy being a record, it certainly is a record. It is a record that the Australian community will not forget. We heard Senator Kernot wearing her usual halo and saying that all of the Labor ministers were terrible—I presume Senator Bolkus was exempt from that comment while he was here—and that Liberal ministers are terrible. But thank goodness for one thing: that we will not have to find out just how terrible a Democrat minister would be, because it is certainly not likely to happen in my lifetime—in fact, never at all.

The true position of the matter is that the Treasurer, Peter Costello, brought down such a responsible and well received budget that the opposition has been clutching at straws for weeks and weeks trying to find some chink in what it perceives to be an impenetrable armour. When these reports came out last week, they thought 'Here is something we can latch on to; we will give that a fling on Tuesday.' They tried very hard today to make something out of nothing. Look at the way that they have handled the MPI, the way they have spoken to it. We had the pathetic attempt by Senator Conroy—who has also left—to make something out of nothing. During the opposition's contribution to this debate, most of the time was spent reading newspaper reports. There was no particular input by opposition members other than citing what somebody else had written and quoting newspaper reports ad nauseam.

I would like to quote a couple myself, because I think there are a couple that are quite important. A newspaper report in the *Sydney Morning Herald* last Wednesday said, 'Tax rises likely if Labor wins power.' It is no wonder that you wanted to get up an MPI today to try and camouflage the fact that your policy is to increase taxes. The shadow treasurer, Mr Gareth Evans, said that tax rises would be likely under Labor. Yesterday, when he was advocating an increase in the federal revenue to address what he calls our low-tax status, he also failed to reject categorically the introduction of a goods and services tax. The shadow treasurer, Mr Evans, having said all these things on Tuesday, said that we were so undertaxed that there is a case for having some overall revenue increases.

I am quite sure that the voters in all of those marginal constituencies, and I think particularly the voters in the upcoming by-election in Lindsay, will be very keen to know that, should we ever get another Labor government at any time in the future, one of the things they will do is increase taxes. I think they ought to remember that when they go to the polls on 19 October.

The same report also says that the 'surprise admission is likely to haunt the opposition because it will allow the government to claim that Labor has a secret tax agenda'. We all knew the opposition had a secret tax agenda. It is no surprise admission because, all along, we have known that, and Mr Gareth Evans has confirmed that by saying that he believes in higher taxation. But then, realising perhaps he had made a bit of a mistake, he said:

> . . . the case for higher taxes would be "less strong" if there were more people employed and paying taxes. Last night his office hastily pointed out that his remarks on increasing Federal revenue did not necessarily mean higher taxes.

What we have had this afternoon is an attempt by the opposition to try and take the spotlight away from the remarks made by the shadow treasurer, Mr Evans, last week, when he indicated to the Australian public that it will be Labor Party policy to increase taxes, that taxes are likely to be increased—

**Senator Bolkus**—You're a liar.

**Senator FERGUSON**—I beg your pardon?

**The ACTING DEPUTY PRESIDENT (Senator Patterson)**—Senator Bolkus, I ask you to withdraw that. If you make an interjection, it is disorderly. To do so not from your own seat is more disorderly. I ask you to withdraw it.

**Senator Bolkus**—On that point, Mr Evans never said that we supported higher taxes.

**The ACTING DEPUTY PRESIDENT**—I ask you to withdraw it.

**Senator Bolkus**—I withdraw the accusation that Senator Ferguson is a liar, but the record shows very clearly—

**The ACTING DEPUTY PRESIDENT**—You are not to debate the issue.

**Senator Bolkus**—I am prepared to incorporate it in *Hansard* that not once did he say the words 'believe in further taxes'.

**The ACTING DEPUTY PRESIDENT**—Senator Bolkus, you are not to debate the issue. Please resume your seat.

**Senator FERGUSON**—Thank you, Madam Acting Deputy President. I am quite happy to table the document that I am reading from: 'Tax rises likely if Labor wins power, says Evans.' I am quite happy to table that. *(Time expired)*

## DOCUMENTS

### Tabling

The following documents were tabled pursuant to the resolution of the Senate of 13 February 1991:

ASTEC Shipping Partnership—Australian Maritime Industries—Document:

> Australian Science, Technology and Engineering Council (ASTEC) Shipping Partnership—Report—Australian maritime industries: Priorities in science and technology, dated September 1996. (Received on 25 September 1996)

Aboriginal and Torres Strait Islander Heritage Protection Act—Review—Document:

> Aboriginal and Torres Strait Islander Heritage Protection Act 1984—Review of the Act—Report by Hon. Elizabeth Evatt AC, dated August 1996. (Received on 26 September 1996)

Auditor-General—Audit Report No. 8 of 1996-97—Document:

> Audit Act—Performance audit—Drug evaluation by the Therapeutic Goods Administration: Department of Health and Family Services (Report No. 8 of 1996-97). (Received on 4 October 1996)

Auditor-General—Audit Report No. 9 of 1996-97—Document

> Audit Act—Performance audit—Building better cities: Department of Transport and Regional Development (Report No. 9 of 1996-97). (Received on 4 October 1996)

Indonesia—Detention of Activists—Document:

> Indonesia—Detention of activists—Letter from the Charge d'Affaires, Embassy of the Republic of Indonesia to the President of the Senate responding to the resolution of the Senate of 22 August 1996.

## BUDGET 1996-97

### Consideration of Appropriation Bills by Legislation Committee

#### Portfolio Budget Statements

**Senator KEMP** (Victoria—Manager of Government Business in the Senate)—I table the following document:

> Estimates of proposed expenditure for the year 1996-97—Portfolio budget statements—Defence portfolio—Department of Veterans' Affairs—Corrigendum [Replacement pages 10 and 92].

A copy of this document has been distributed to members of the Senate legislation committees and other senators. Additional copies are available from the Senate Table Office.

## COMMITTEES

### Senators' Interests Committee

#### Register of Senators' Interests

**Senator CHRIS EVANS** (Western Australia)—On behalf of Senator Denman and in accordance with the Senate resolution of 17 March 1994 about the declaration of senators' interests, I present a copy of the latest register of senators' interests containing information on the register as of today, 8 October 1996.

Ordered that the document be printed.

## BANKRUPTCY LEGISLATION AMENDMENT BILL 1996

## LEGISLATIVE INSTRUMENTS BILL 1996

### First Reading

Bills received from the House of Representatives.

Motion (by **Senator Kemp**) agreed to:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Bills read a first time.

## Second Reading

**Senator KEMP** (Victoria—Parliamentary Secretary to the Minister for Social Security) (4.56 p.m.)—I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in *Hansard*

Leave granted.

*The speeches read as follows—*

BANKRUPTCY LEGISLATION AMENDMENT BILL 1996

The Bankruptcy Legislation Amendment Bill contains a number of important bankruptcy reform measures. A similar bill was first introduced into this house by the former government in March last year. Before its introduction, extensive consultation was conducted by way of discussion papers circulated to interested professional and community groups. Despite this consultation, concerns regarding certain provisions remained.

The bill that I am introducing today will, I am confident, overcome the issues raised by, or on behalf of, many insolvency practitioners during debate on the 1995 bill. It also addresses other matters identified by the Senate Legal and Constitutional Legislation Committee in its majority report of September 1995.

The Bankruptcy Legislation Amendment Bill retains many of the features of the 1995 bill with some important changes that will achieve a greater level of fairness, while also providing an appropriate balance between the aims of financially rehabilitating debtors and enabling proper levels of returns to be recovered for creditors.

The concerns raised by practitioners regarding the definition of insolvency as proposed in the 1995 bill have been addressed. The bill now proposes that "insolvent" be defined in the same terms as that applying under Corporations Law. That is, a person is insolvent if he or she is unable to pay his or her debts as they become due and payable. I have also adopted suggestions that transferees should not be disadvantaged by the new provisions if a transfer is void against the trustee.

Instead of the transferee merely proving in the bankruptcy, under the proposed changes a trustee will be required to pay to the transferee an amount equal to the value of any consideration that the transferee gave.

Changes are also proposed to the definition of income when assessing whether a bankrupt is liable to make a mandatory contribution to his or her estate. Among other things it will exclude payments of legal fees that are paid under special schemes designed to assist low income litigants.

These are just a few of the changes that have come about as a result of consultation with practitioners. I recognise that professionals involved in the personal insolvency field have a lot to offer and obtaining their views will assist in the development of improved laws in this area. To this end, I have established a new forum to achieve improved consultation on matters of interest to personal insolvency practitioners. It is planned that the consultative forum will meet twice each year. I have invited key organisations in the personal insolvency field to participate in discussing important matters for improving bankruptcy law and practice.

The bill as a whole will bring about major improvements to bankruptcy administration by streamlining procedures and processes for trustees, introducing a new form of insolvency arrangement, and tightening up antecedent transaction provisions, all of which I will discuss in more detail.

I am confident this bill will lead to significant improvements to bankruptcy law and practice and further reforms will be possible through the co-operative efforts of all those involved in the personal insolvency system.

ADMINISTRATIVE ARRANGEMENTS

ONE STOP SERVICE

The bill will create an extended service within the Insolvency and Trustee Service, Australia (ITSA).

That will be achieved by the proposed abolition of the offices of Registrar and Deputy Registrar in Bankruptcy and the distribution of the functions performed by them among the Inspector-General in Bankruptcy, the Official Receivers, trustees and the Federal Court. The bill is designed to ensure that most persons in financial difficulty will only have to deal with one agency in relation to bankruptcy and personal insolvency matters, rather than two, as at present.

People who lodge debtor's petitions will benefit most from this change, although those involved in administrations resulting from creditors' petitions will also find that there has been a significant decrease in the paperwork and administrative red tape that will be required.

At present when a debtor presents a debtor's petition for bankruptcy, he or she must go to the Registrar's office in the Federal Court to complete a petition and a statement of affairs. When the petition is accepted, the debtor becomes a bankrupt. A file in relation to the Bankruptcy is held by the Court. Under the proposed arrangements the debtors petition will be lodged with ITSA and all records relating to any bankruptcy will be held in ITSA. If the bankruptcy is administered by ITSA, as 92% of them are, then the debtor need go no further.

The bill provides that ITSA will be responsible for providing information to all debtors who want to lodge a debtor's petition. It is envisaged that this information will cover such things as possible alternatives to bankruptcy, the effect of bankruptcy on their assets and income, as well as employment disqualifications associated with becoming a bankrupt. This information should enable debtors to give more careful consideration to whether bankruptcy is really appropriate or whether it would be better to try other options, or seek further advice about their financial difficulties, before lodging a debtors petition.

There are no changes proposed for creditor's petitions, which may involve a contest between the creditor and the debtor as to whether a sequestration order should be made. Creditor's petitions are dealt with by court hearing before a Judge, or a District or Deputy District Registrar of the Federal Court exercising delegated judicial powers. If a sequestration order is made, the bankrupt's estate is administered by a trustee, either a registered trustee or the Official Trustee (ITSA).

Consistent with the change to a single administrative agency for personal insolvencies, the bill proposes the transfer of the responsibility for maintaining bankruptcy records to ITSA from the court. A number of provisions proposed by the bill will specify what information should be recorded in the proposed National Personal Insolvency Index (NPII). The information currently on the data base maintained by the Court will be transferred to the NPII data base, and all bankruptcies and insolvencies will be recorded on it.

TRUSTEE POWERS AND DUTIES

I am mindful of the need to minimise administrative burdens for bankruptcy trustees. This bill will retain the existing three year registration period for trustees and at the same time it will revise the duties of trustees to align them with contemporary expectations. It proposes that trustees will be given greater power to act without the need for approval by the court, creditors or a Committee of Inspection when administering bankruptcies.

Other proposed changes will assist registered trustees by allowing for quicker and easier identification of relevant documents located after gaining access to premises.

Changes are also proposed to the administration of Part X of the Act to make administration of these provisions more straightforward for trustees.

Changes to the method of approval of forms that will allow for more flexibility in designing them to address quickly emerging needs are also proposed.

This package of measures will lead to administrative savings in the personal insolvency system.

ALTERNATIVES TO BANKRUPTCY DEBT AGREEMENTS—A NEW FORM OF INSOLVENCY ADMINISTRATION

Over a number of years, there have been calls for a form of insolvency administration outside bankruptcy and Part X that can be used by people with low levels of debt, few assets and low incomes who are not able to afford to enter arrangements under Part X of the Act. With the recent rise in the number of bankruptcies, most of which are attributed by the bankrupt to either unemployment or excessive use of credit, the introduction of a new simple form of insolvency administration is timely.

People who find themselves unable to pay all their debts or who may be unable to meet repayments due to a temporary change in income will no longer have to go bankrupt. Instead, they may put a proposal to creditors for dealing with their debts. Proposals micht contain a request such as the payment of less than the full amount of all or any of the debtor's debts, a delay on payment, periodic payments out of income, or agreement to seek financial advice. The essence of debt agreements is that they are made direct with creditors.

Debtors on a relatively low after tax income of approximately $26,000 with both debts and assets less than a threshold of approximately $52,000 will be eligible to make a debt agreement.

A debt agreement will release the debtor from debts which would be provable in bankruptcy as if the debtor had become a bankrupt when the agreement is recorded on the National Personal Insolvency Index.

The debt agreement will operate to stay legal proceedings for enforcement of debts, other than debts or liabilities arising under a maintenance agreement or maintenance order.

The debtor would put the proposal to the Official Trustee, that is, ITSA. ITSA will then be responsible for making arrangements to find out whether the proposal was—acceptable to the debtor's creditors.

If the creditors agree to accept the debtor's proposal using the method set out in the bill, then the agreement will be registered by ITSA.

Agreements can be varied and brought to an end using the same procedures. Also, the Court will have power to declare a debt agreement to be void. Ordinarily, a debt agreement will end when the debtor has fulfilled all of his or her obligations under it.

Although the Official Receiver accepts or rejects debt agreement proposals for processing he or she will not necessarily perform a trustee function under a debt agreement, as would be the case of a trustee in a bankruptcy. Instead, a debt agreement could provide for the debtor to make payments to

creditors directly, or for this to be done by some other third party, or perhaps, one of the creditors on behalf of the others.

The proposed debt agreements provide a real improvement for low income debtors who are interested in meeting their obligations to pay their debts. They should allow debtors the opportunity to obtain a "breathing space" during which time they can explore opportunities for dealing with debts outside of bankruptcy. This will avoid the stigma that bankruptcy entails while, at the same time, encouraging practical arrangements with creditors likely to result in a better return for them.

RETURNS TO CREDITORS

The proposals in the bill to revise the antecedent transaction avoidance provisions, as with those improving the income contribution scheme, are fair to both bankrupts and creditors and will serve the interests of the Australian community.

The changes proposed to this area of the law will simplify it, focussing on the nature of the transactions and the likely effect on creditors.

ANTECEDENT TRANSACTIONS

Under the proposed amendments changes will be made to the provisions relating to transfers of property. These changes will apply to all new bankruptcies occurring after the commencement of the amendments. A transfer of property will be void against a trustee in certain circumstances. If the transfer takes place within five years of the date of commencement of the bankruptcy and the transferee (that is the person who received the property) either gave no consideration for it, or gave consideration that was less than market value for it, the transfer will generally be void against the trustee. The exception is where the transfer took place more than two years before the commencement of the bankruptcy and the transferee can show that the transferor was solvent at the time of the transfer. In these circumstances the transfer will not be void.

For example, if a person transferred property to another, four years before the date of bankruptcy, for less than market value and at the time the transferor was solvent, the transfer would not be void against the trustee.

A transfer is also void against the trustee if the bankrupt's main purpose in transferring the property was to defeat or delay creditors unless the transferee can prove that consideration of at least market value was given, the transferee did not know the transferor's main purpose was to defeat creditors, and the transferee could not have inferred that the transferor was, or was about to become, insolvent.

In deciding whether consideration was given for the transfer of property consideration will no longer include promises to marry or become the de facto spouse of a person, the transferee's love and affection for the transferor, the making of a gift under deed where the transferee is the spouse or de facto spouse of the transferor, and the fact that the transferor is related to the transferee.

For example, if a person gives property to another for love and affection even one year before the commencement of their bankruptcy, the transfer will be void against the trustee.

These provisions balance the need to protect the rights of bona fide purchasers against those of creditors whose interests might otherwise be defeated by a bankrupt arranging his or her affairs before bankruptcy so as to place property beyond the reach of creditors.

IMPROVING THE INCOME CONTRIBUTION SCHEME

A key amendment proposed by the bill in relation to the income contribution scheme is the revision of the definition of 'income' to overcome the restrictive interpretation placed on it by the Federal Court in the case of Bond v Ramsay (1994) 125 ALR 399. The bill includes amendments to restore the position to what it was believed and intended by the Parliament to be prior to the Federal Court decision.

Also, the definition of 'income' is to be further expanded so that it will include the value of 'loans' given to the bankrupt. These amendments are designed to ensure that benefits obtained by bankrupts from loan accounts that cannot be characterised as assets forming part of the divisible property of the estate are taken to form part of the bankrupt's income.

The bill includes other important changes to simplify the procedures for calculating the amount of income contribution that must be made by a bankrupt and to overcome anomalies in calculating part year amounts and where a bankrupt has persons partially dependant on him or her.

Mr Speaker, the Bankruptcy Legislation Amendment Bill introduces a number of measures that will improve the effectiveness of bankruptcy law and practice and reduce unnecessary administrative procedures which will greatly improve the operation of the personal insolvency system. This will be to the advantage of the Australian community as a whole, not only those who come into contact with the bankruptcy system. I commend the bill to the Senate.

LEGISLATIVE INSTRUMENTS BILL 1996

The Legislative Instruments Bill 1996 will significantly reform the processes for making, publication, scrutiny and sunsetting of Commonwealth delegated legislation.

As part of its Law and Justice and New Deal for Small Business policies, the government undertook to introduce a strengthened Legislative Instruments Bill, with limited exemptions and provision for five-year sunsetting of regulations. The bill implements those policies and will perform a gatekeeper role in relation to legislative instruments, preventing the unchecked proliferation of delegated legislation.

Proposals for a Legislative Instruments Bill arose in 1992 with the Administrative Review Council's report "Rule Making by Commonwealth, Agencies". The Council found that delegated legislation varied in quality, and was inaccessible and obscure. It recommended the enactment of a Legislative Instruments Act to address problems with current procedures relating to delegated legislation.

The previous government introduced the Legislative Instruments Bill 1994 in response to the Council's report. That bill was considered by several parliamentary committees, including the House of Representatives Standing Committee on Legal and Constitutional Affairs, and many suggestions for change were made. The bill was awaiting passage in the Senate when parliament was prorogued prior to the 1996 election.

The amount of scrutiny the 1994 bill received is indicative of the importance of this legislation in reforming the procedures for making, publication and scrutiny of delegated legislation, and in redefining the relationship between parliament and the Executive.

The Legislative Instruments Bill 1996 draws on earlier work but is significantly strengthened by the introduction of sunsetting and a more structured consultation regime to represent the best achievable package of reforms. It represents a significant shift in control over delegated legislation back towards the parliament, and increases government accountability through improved access and consultation mechanisms.

The Attorney-General in the debate in the other House mentioned the increased volume of material that will need to be considered by the parliament. He foreshadowed that consideration will need to be given to the role of the Senate Standing Committee on Regulations and Ordinances and the role of the House of Representatives.

The bill will apply the same regime to all delegated 'legislative instruments', instead of the varying requirements that may presently apply. This will provide greater certainty about the regime applicable to legislative instruments. The bill's coverage is determined by a definition of a legislative instrument, essentially based on the legislative character of instruments. There are very limited exemptions from the bill, and I do not expect these exemptions to be readily expanded.

The bill introduces a mandatory consultation procedure for instruments directly affecting business, or having a substantial indirect effect on business. Consultation will ensure the consideration of all relevant issues before delegated legislation is made.

The consultation process will generally require public notification of a proposal to make a legislative instrument affecting business and the development of a Legislative Instrument Proposal which analyses the need for the regulation, the costs and benefits of it and alternative ways of achieving the objectives of the proposal. This will allow public input into the proposal, and should ensure that any defects in the proposal are identified and can be addressed before the instrument is made. The extension of consultation beyond the business context will be considered in the review of the legislation in light of the experience gained in this more targeted approach.

The bill represents a radical new approach to providing access to delegated legislation. Primary legislation is already relatively accessible from Australian Government Publishing Service bookshops, the Internet and often public libraries. However only some delegated legislation, mainly regulations, is easily accessible to the public. A substantial amount of delegated legislation is difficult to locate and obtain. This is unsatisfactory, as the community is entitled to know what laws exist and apply to them. To overcome this problem the bill establishes the Federal Register of Legislative Instruments, which will consist of the scanned images of new and existing legislative instruments and an index. The text of information contained in the Register will be searchable at AGPS bookshops and on the Internet. Ultimately all Commonwealth delegated legislation will be available and searchable in one location.

After the commencement of this legislation any new legislative instrument must be on the Register to be enforceable. Existing instruments must be placed on the Register according to a timetable contained in the bill, and if they are not registered by the relevant deadline will cease to be enforceable.

This "backcapturing" procedure will work together with the sunsetting regime in the bill to ensure the regular review of legislative instruments.

The bill will ensure that parliament will have a greater role in the scrutiny of delegated legislation. All new legislative instruments will be subject to parliamentary scrutiny. This is not currently the case with many legislative instruments. To achieve this outcome, the provisions of the acts Interpretation Act dealing with construction and disallowance of regulations are being repealed and reenacted in this bill. parliament's powers in dealing with disallowable instruments will also be enhanced

by enabling consideration of a disallowance motion to be deferred for up to six months. This will allow the rule-maker to remake or amend the instrument to achieve an objective specified in the deferral resolution .

The bill will prevent outdated and unnecessary legislative instruments remaining in force. This will reduce the number of outdated and unnecessary legislative instruments on the statute books, helping to lessen the regulatory burden on small business. To achieve this the bill will contain a comprehensive sunsetting regime—introducing 5 year sunsetting of new legislative instruments. Existing instruments will be sunsetted 5 years from the cut-off date for their backcapture onto the Register. This automatic repeal after 5 years will force agencies to regularly review the delegated legislation they administer.

The bill will introduce the most comprehensive reforms to delegated legislation in Australia.

I table revised explanatory memoranda and commend the bill to the Senate.

Debate (on motion by **Senator Chris Evans**) adjourned.

Ordered that the bills be listed on the *Notice Paper* as separate orders of the day.

## GRANTS (GENERAL PURPOSES) AMENDMENT BILL 1996

### First Reading

Bill received from the House of Representatives.

Motion (by **Senator Kemp**) agreed to:

That this bill may proceed without formalities and be now read a first time.

Bill read a first time.

### Second Reading

**Senator KEMP** (Victoria—Parliamentary Secretary to the Minister for Social Security) (4.57 p.m.)—I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*

Leave granted.

*The speech read as follows—*

The purpose of the bill is to put in place arrangements for the provision of general revenue assistance to the states and territories in 1996-97 and for the Commonwealth to commence making competition payments to the states and territories in 1997-98. The bill also provides for the states and territories to make fiscal contributions to the Commonwealth in 1996-97 by way of deductions from general revenue assistance. The contents of the bill are consistent with decisions taken at the 1996 Premiers' Conference and related agreements with the states and territories.

The bill will amend the states Grants (General Purposes) Act 1994. The existing act covers the provision of general revenue assistance for 1995-96 only, with interim arrangements for the continuation of payments for a maximum of six months. The bill extends the provisions of the existing act relating to the payment of general revenue assistance for a further 12 months and introduces new provisions in relation to competition payments and fiscal contributions.

The general revenue assistance to be appropriated by this bill is about $16.3 billion, or around 12 per cent of estimated Commonwealth outlays in 1996-97. Accordingly, these payments constitute a significant element of the Commonwealth Budget and have an important bearing on the spending and borrowing of the public sector as a whole. The states and territories are able to allocate the funds provided by the Commonwealth under this act according to their own budgetary priorities.

The 1996 Premiers' Conference agreed that the states and territories will be provided with real per capita growth in financial assistance grants in 1996-97 and that the real per capita guarantee for financial assistance grants will be extended to 1998-99. The real per capita guarantee remains conditional on a state meeting the terms of the Agreement to Implement the National Competition Policy and Related Reforms. In accordance with this Agreement, the bill also contains provision for the commencement of competition payments to the states and territories in 1997-98.

The Premiers' Conference also agreed that the states and territories would contribute to the Commonwealth's deficit reduction program over the next three years. It was agreed that the states and territories will make payments to the Commonwealth of $619 million in 1996-97, $640 million in 1997-98 and $300 million in 1998-99, with the contribution of each state to be on a per capita basis. The need for these payments to be made by the states and territories will be reviewed annually at future Premiers' Conferences in the light of the Commonwealth's fiscal position.

The Commonwealth has sought to provide states and territories with maximum flexibility concerning the method of payment. A state's share of the fiscal contribution can be paid by way of deductions from general revenue assistance, direct payments to the Commonwealth or a reduction in funding provided under a specific purpose grant Provisions have been included in the bill for states' fiscal contributions

in relation to 1996-97 to be deducted from general revenue assistance.

The major part of the assistance provided under this bill is the provision to each state and territory of a share of the pool of financial assistance grants which is estimated to be about $15.5 billion in 1996-97. The 1996 Premiers' Conference agreed that the distribution of this assistance should be in accordance with the amended per capita relativities recommended by the Commonwealth Grants Commission. The bill updates the per capita relativities in the act accordingly.

The bill authorises the payment of special revenue assistance to the states and territories in 1996-97 estimated at $438.4 million. Of this amount, $428.4 million relates to payments to New South Wales and Victoria under the guarantee arrangements associated with the Medicare Agreements. The Commonwealth will fund $61.2 million of these payments and the residual will be funded from the financial assistance grants pool.-The remaining special revenue assistance relates to special revenue assistance of $10 million to the Northern Territory which will also be funded from the financial assistance grants pool.

The Australian Capital Territory will also receive $42.2 million from the Commonwealth in the form of transitional allowances and special fiscal needs. This payment is outside the scope of this bill and has been included in the Appropriation bills.

In 1996-97, the Commonwealth will provide an estimated $384 million in identified arterial road grants to-the states and territories. In accordance with the agreement reached at the 1996 Premiers' Conference, in 1996-97 two thirds of this amount will be distributed on the basis of the Commonwealth Grants Commission's relativities which underlie the distribution of financial assistance grants and one third will be distributed on the basis of historical shares.

Madam President, I present the Explanatory Memorandum to the bill and I commend the bill to the Senate.

Ordered that further consideration of the second reading of the bill be adjourned until the first day of sitting in the Autumn sittings, in accordance with the order agreed to on 29 November 1994.

## GOVERNOR-GENERAL'S SPEECH

### Address-in-Reply

Debate resumed from 11 September, on motion by **Senator Teague**:

That the following Address-in-Reply be agreed to:

*To his excellency the Governor-General*

MAY IT PLEASE YOUR EXCELLENCY—

We, the Senate of the Commonwealth of Australia in parliament assembled, desire to express our loyalty to our Most Gracious Sovereign and to thank Your Excellency for the speech which you have been pleased to address to parliament.

upon which **Senator Faulkner** has moved by way of amendment:

That the following words be added to the Address-in-Reply:

", and the Senate is of the opinion that no part of Telstra should be sold."

**The PRESIDENT**—Before I call Senator O'Brien, I would remind honourable senators that this is his first speech. I would therefore ask that the usual courtesies be extended to him.

**Senator O'BRIEN** (Tasmania) (4.58 p.m.)—In making my first speech to the Australian Senate, I want to express my gratitude for the great honour and privilege that I have been given by the Australian Labor Party in being selected to represent it and the Australian people in this chamber. My commitment is to the Australian Labor Party and the values of social equality, opportunity and community advancement that it represents. I will do all that I can to meet its high expectations.

I am a first-generation Australian. I was born in Sydney a little more than 45 years ago and grew up in the then outer suburb of Bass Hill. My parents came to Australia from Dublin via New Zealand and, like many of my schoolmates, I had through my family the influence of another national culture while calling myself an Australian. While my parents had to struggle to 'make it' in Australia, I do not regard myself as underprivileged. I cannot remember being hungry or deprived, although I know how hard my parents worked to make sure that their family had a better life and better opportunities than they had had in their country of birth.

I was educated in the public education system and have been privileged to be associated—with many students—with the excellent educational opportunities that the public system opened to us then. My own experience has taught me the importance of a public

education system and I intend to do whatever I can to nurture and preserve that system.

I lived and worked in Sydney until 1983 and, after leaving school, had a variety of jobs and spent some time working as a law clerk. That experience and my father's involvement in the union movement led me to be employed on research and industrial commission work with the Federated Miscellaneous Workers Union under General Secretary Ray Gietzelt.

In 1982 the Tasmanian branch secretary of the union was charged with a number of breaches of union rules and ultimately resigned. I was asked to move to Tasmania to assist the branch. With my wife Louise and my daughter Dale I moved to Hobart. What was, at the time, a great challenge became the greatest experience and opportunity of my life. From 1983 until July this year I held office as branch secretary of the Federated Miscellaneous Workers Union, becoming joint branch secretary of the Australian Liquor Hospitality and Miscellaneous Workers Union in 1983.

In July this year I resigned the joint branch secretary position and filled the position of branch president, until I resigned in anticipation of my appointment to the vacancy created by John Coates's resignation. John was first elected to the House of Representatives in 1972 at the age of 27 and served two short terms representing the seat of Denison in that house, losing his seat in 1975. John was elected to the Senate in 1980 and re-elected in 1984, 1987 and 1993. Over a political career spanning 24 years, 19 of which were spent in the Senate or the House of Representatives, John Coates made his mark, particularly in his committee work. John Coates entered parliament as a socialist and left as a socialist. He proved himself to be an uncompromising advocate of his beliefs and a dedicated member of the Australian Labor Party. I wish him well in his retirement.

My work as a union official has given me a special opportunity to learn from many people. Firstly, members of my union and other unions have given me a daily reminder of just how hard it is for working families to go about their lives, meeting their responsibilities to their employers, their workmates, members of their family and the community. Secondly, employers and their representatives have given me some insight into some of the problems and possibilities which the business sector faces. Thirdly, dealing with government has given me an insight into the workings of the public sector, the responsibilities and problems of government and opposition and the opportunities for government to be a creator, an instigator and an inspirational force, or an inert organisation. Most of all, it has shown me that the most wonderful of feelings is the feeling of being able to make a difference, to be able to say that someone's life is a bit better and that somehow I had a hand in that outcome. There is nothing more gratifying than a genuine thank you from a union member, even better when you know that somehow you have helped the member do something for themselves.

Having been president of the Tasmanian Trades and Labour Council, I am happy to say that I have worked not just for the members of my union but for members of all unions in Tasmania. As Senator Harradine can no doubt confirm, the Tasmanian Trades and Labour Council has a strong record of achievement for the Tasmania community. I take this opportunity to commend its secretary, Lynne Fitzgerald, who is a professional and dedicated person. Lynne is the first woman to hold office as secretary of the peak union organisation in a state.

I regard organisations of employees as one of the cornerstones of modern democracy. Countries which do not have significant free trade union movements are generally lesser democracies or worse. The greatest advances for the population of this and other countries have occurred concurrently with the organisation of employees into democratic representative bodies. A society that values the individual to the detriment of the community cannot make progress. Collectivism in the work force, as in society in general, is the recipe for social cohesion, community advancement and harmony.

I am not saying that union members or their leaders are always right. Just as juries convict innocent people, governments make bad laws

and the media fails to report important news, so employee organisations make mistakes. But as juries, governments and the media are important elements in a democracy, so are employee organisations. It is no coincidence that every dictatorial regime the world has experienced this century has taken steps to crush or control its country's union movement, to maintain control. Unions around the world have played their part in giving the aspirations of ordinary people a voice, changing unjust laws and making living and working conditions more bearable for the whole community.

I have found that principles and high ideals are not enough on their own; they need people to express them, to make them live and to make them work. I credit my mother and father with impressing on me the basic life values that I have built upon during my adult life. Unfortunately, neither were alive to see my election to this chamber. Both my mother and father were committed to a fair and just society. My father, a socialist and republican, worked as a carpenter and later as a union organiser. A long serving member of the ALP, he believed in working to make the lives of workers, members of the community, returned servicemen and women—through his RSL activity—pensioners and young people better. My mother was a quiet achiever who made my sisters and I appreciate the lives that we had been given even more. I will miss their counsel.

My experiences and the people I have met as a member of the ALP in New South Wales have given me an insight into the workings of a complex political organisation with a broad charter. Some would describe New South Wales ALP politics as the sharp end of party politics. It certainly is a good grounding for any person, particularly when they have the opportunity, as I have had, to observe the people and the process at close range.

Through my involvement with the party in New South Wales, I have had the great privilege of working with and observing Neville Wran, one of the great premiers of New South Wales. Neville Wran stands out as by far the most accomplished politician and leader of his era. While circumstance denied him the opportunity, I have no doubt that, had he been given the opportunity of leading the ALP in the federal parliament, he would have been one of the great prime ministers of this nation. Wran's achievements in winning government in New South Wales when Labor had just lost government federally, winning the environment debate and implementing significant pro-environment policies against major opposition from conservative elements within and outside the party, and reforming the Legislative Council of New South Wales to make it a democratic and full-time body, are achievements which have always impressed and inspired me.

As General Secretary of the FMWU, Ray Gietzelt was an inspirational leader. Ray is a man of honour, his word is his bond. He is a man who was driven to make his union the best, and in his eyes it could only be the best if it achieved results for its members. A stickler for union democracy, he influenced me in the time that I worked with him and I have carried with me the rules of honour that he imbued in all of his officers.

For the past 14 years, I have had a close association with Leo Brown, former secretary and later president of the FMWU in Tasmania. Leo was also a president of the Tasmanian branch of the ALP. He is now a life member of the ALP and was awarded the Order of Australia, general division, in 1988. A man of humble origins and limited formal education, Leo has impressed me with his insight into people and the political process.

Leo has never lost his commitment to the advancement of workers, pensioners and the unemployed. He still gives freely of his time to the union and the peace movement and is involved with community mediation in the interests of contributing to a better society for all. I regard Leo as a friend and a valuable sounding board for many issues. He is a great man who deserves and holds the respect of many Tasmanians.

His wife, Pauline, is an inspiration to him and to her family. I share their love and admiration of her. Pauline is a true Christian in every sense of the word. Although I am not a believer myself, that does not diminish my respect for Christian values. What I respect

the most is the person who holds those values and truly practises them. I regard Pauline as such a person. I am sure there are many such people. Pauline Brown is the person with whom I identify these values and I am inspired by her caring, selfless concern for others. To that extent, she is a symbol to me and I hope that whatever I do here will have her respect.

I also want to acknowledge the inspiration that many members of my union have given me. Few are given the opportunity to lead such a deserving group of men and women. I have been inspired knowing them, serving them, achieving for them and working with them even when winning their cause was not possible. When I read Henry Lawson's poem *I'm Too Old To Rat*, I know what he felt. That is a privilege that some senators here will share and that other senators could only aspire to.

I could not complete any list without giving perhaps the greatest credit for inspiration and insight to my partner, Louise, and my daughters, Dale and Erin. My partner, Louise, is my best friend, my adviser and my No. 1 supporter. I continue to be surprised by her insight into people and relationships and her ability to help me solve problems and face the difficulties of life. Without her support, I would not be here today. My daughters, Dale and Erin—both beautiful, talented and intelligent young women—have to be my home support team as I will be away from them so often now. Families make their sacrifices, and I acknowledge theirs today. Their pride in me is an inspiration to me.

Since moving to Tasmania in 1983 I have come to love the state, its beauty and grandeur. Few who visit Tasmania can resist describing it as the most beautiful and charming part of Australia. Tasmania has the best scenery, the cleanest environment and the friendliest people in Australia, perhaps even the world. The state produces some of the finest seafood, cheeses and meat products in the world, and its waterways are often sailed by Australia's best yachtsmen and women.

It also produces some of the best Australian Rules footballers. Heaven help the other AFL clubs if all Tasmanians now playing for clubs around Australia form a Tasmanian based team in the competition. That just might happen if things go well for Tasmania, but at the moment Tasmania hangs on the brink.

In a state with a landmass greater than 67,800 square kilometres and a population of 472,000, cut off from the rest of Australia by Bass Strait, opportunities are limited. Australia has always complained about the problem of tyranny of distance. Tasmania's tyranny is Bass Strait. If we could drive or rail to the mainland, things would be better—we cannot. Tasmania, until the early 1980s, kept its head above water by virtue of the hydro industrialisation policy. That was a policy of using Tasmania's water resources and terrain to create hydro power—cheap power for industry. The policy created an economy with most investment being in dam or power station construction to provide power to large manufacturing or resource processing businesses.

The 1980s, however, saw the beginning of the end of the effectiveness of that policy. The blocking of the Gordon below Franklin power scheme was in fact a benefit for the state. The building of two small dams after that blocking was unnecessary. The cost of power from these newer dams as well as some of the older dams was too great when compared to other potential power sources. Large power users started to downsize, and the construction work force gradually disappeared.

The Gray government, which won power on the back of the debate over the Franklin and traded on the issue for years, had no policies for the revitalisation of the industrial base and ran up public debt to pork barrel its way to a series of election victories. By 1989 Tasmania had no policies for renewal, an enormous public debt and shrinking employment opportunities. Mining, manufacturing and forestry were all utilising machines to replace workers or closing down production lines. It was all a recipe for economic disaster for the state.

In the 1989 elections, Labor, in accord with the Tasmanian Greens, replaced Gray's Liberal government, but Labor found itself faced with an impossible task. Minority government and big public debt were too great a burden and finally the arrangement

with the Greens broke over what really was a non-issue—the size of the woodchip quota.

When Tasmanians went to the polls, the Liberals won government in their own right promising, 'Jobs, jobs, jobs,' under Ray Groom. Groom then sacked workers, increased the pay of politicians and vandalised the state's industrial laws. He did not produce jobs. After all, no government can manufacture jobs without a viable strategy.

Today we have a minority Liberal government kept in power by their nemesis—the Tasmanian Greens. Still there is no sign of the spark that the state needs for revitalisation. As national companies move their administration back to Melbourne, Sydney or Adelaide, as local companies reduce their work forces through downsizing, the economy of Tasmania suffers more.

Now the Howard government wants to deliver the coup de grace. Hundreds of Commonwealth public sector jobs are going with the current budget and associated funding cuts. Services as well as jobs are disappearing. The Mowbray CES office and the Launceston tax office have closed and the Family Court in Launceston is to close. The federal government cuts to state government funding have prompted it to implement budget measures, which will see over 1,000 public sector jobs disappear. These cuts will spin off into the private sector, particularly the retail and service sectors. Hundreds, if not thousands, of jobs will be lost in these sectors. Couple this with a decline in business confidence and the potential for a greater unemployment catastrophe to descend upon the state exists.

Running a business in Tasmania in these circumstances is difficult enough. However, when you add the problem of Bass Strait to this bleak picture it gets worse. Tasmania argues that other states benefit from the existence of Commonwealth funded national highway schemes and that this is unfair for Tasmanians who must pay the full cost of their air fares and sea links to mainland Australia.

The Nimmo inquiry into transport to and from Tasmania identified that the costs of transporting goods to and from Tasmania were extremely high compared to transporting goods over the same distance on the mainland, and that these higher costs were detrimental to Tasmania's welfare and economic development.

Tasmania needs a full and comprehensive freight equalisation system in order to compete. The current levels of freight equalisation have not remedied the inequities in the cost of transporting goods. Reductions proposed to that assistance will make the problem worse.

In March 1985 the Inter-State Commission produced a report which demonstrated that the shippers of non-bulk cargoes still faced a cost disability. The Tasmanian freight equalisation scheme also neglects to provide subsidy for the cost of air travel, which was a recommendation of the Nimmo report. The election campaign pledge of the government to conduct a review of the Tasmanian freight equalisation scheme is estimated to result in a reduction of $13.2 million in the subsidy over the four years to the year 1999-2000.

It is not only freight that is disadvantaged when crossing the strait. Tasmanian families and visitors to Tasmania also incur very high fees, which for many makes travel financially impossible to consider, even with the available subsidy for transport of a vehicle. In the early years of the 1980s passengers were able to cross the strait on the *Empress of Tasmania*—a ship owned and operated by the ANL with a subsidy which was provided by the Commonwealth government.

In 1983-84 the then Premier of Tasmania, Robin Gray, agreed with the Commonwealth to do away with this subsidy and the ship the *Empress of Australia* in return for a once-off capital grant of $26 million to allow the state to buy a ferry. This once-off deal between the Commonwealth and Premier Gray meant that there were no further subsidies paid for this service until 1993-94. In the 1983-84 expenditure the Commonwealth subsidy was worth $2.8 million. In 1993-94 it was worth $2 million. Tasmania is worse off for this arrangement. In today's terms the 1983-84 subsidy is worth approximately $5.5 million. Tasmania has therefore suffered a reduction of $3.5 million or 63.6 per cent in the 1983-84 subsidy in real terms.

One of the more positive stories for Tasmania is the success of Incat Australia. Incat employs more than 1,000 people at its shipyard in Hobart where it builds high speed catamaran hulled ferries. Recently this business has been expanding rapidly, but now this company's operation in Tasmania is threatened by the government plan to remove the ship bounty. The ship bounty is a Commonwealth subsidy based on the eligible costs of construction of a ship. Currently the subsidy is worth five per cent to Australian shipbuilders. This will mean that Australian shipbuilders, and Incat in particular, will no longer be competing on a level playing field. In fact, coupled with a strong Australian dollar, they will be some 15 per cent worse off than their European competitors. If the government goes ahead with its plan to remove the bounty, the largest private employer in Tasmania will be forced to accept the offer to build Incat K50 ferries in China. With the already high unemployment in Tasmania set to rise as a result of further Commonwealth cuts, this would be disastrous for the Tasmanian community.

Telstra is also a major employer in Tasmania. The Howard government wishes to part-privatise Telstra now and if successful will inevitably seek to fully privatise it if it is fortunate enough to win a second term of office. Job cuts have occurred under the guidance of the previous board of Telstra. There is no reason to think that the likely reduction in the number of its employees by 500 to 700 will be changed by the new board. The job losses are mounting, are they not?

Worse than that, with the part-privatisation of Telstra, Tasmania will lose the benefits of cross-subsidisation of its telephone and related services that a publicly owned system brings. This will cost the public and business dearly in the long term. Business will face higher set-up and operating costs. This will make it less competitive. Tasmania will also lose access to the most modern broadband cabling system in the future as private operators will want to service only the high yield business centres and not the less profitable regional areas. Denied this infrastructure, Tasmania will not be able to attract the sorts of businesses that depend on such facilities. This will be another reason for a decline in business and therefore work opportunities in the state.

I want Tasmania to have a good future. Tasmania is too good a place to be abandoned to become a backwater. Tasmania has the basic infrastructure that any community would aspire to. It is decentralised. It has a good education system. Its work force is highly productive. It delivers a high quality lifestyle to its people. It has a non-polluting power generation system, good agricultural land and clean cities and towns. The aberration of the Port Arthur massacre is not in any way a reflection on the state or its people. It is a place with unlimited potential. It is a place in need of renewal.

Tasmania needs a state government with a plan for state renewal and a federal government sympathetic to its needs now and in the future. At present it has neither.

I see it as my task in this place to work for and with the Tasmanian community to repay their faith in me by my commitment to them. In doing that, I intend to be governed by the examples and philosophies that I referred to earlier in this speech, particularly with honour and with special regard for people needing help and compassion and by respecting the beliefs of others.

**Honourable senators**—Hear, hear!

Debate (on motion by **Senator Harradine**) adjourned.

## WORKPLACE RELATIONS AND OTHER LEGISLATION AMENDMENT BILL 1996

### Second Reading

Debate resumed from 11 September, on motion by Senator Kemp:

That this bill be now read a second time.

**Senator SHERRY** (Tasmania—Deputy Leader of the Opposition in the Senate) (5.24 p.m.)—In commencing my contribution on behalf of the Labor Party to the debate on the workplace relations bill, I would like to place on record my congratulations to Senator O'Brien on his first speech in this place. It is ironic, to some extent, that we are resuming debate on this workplace relations bill given Senator O'Brien's background. I am sure that

he, in his years ahead in the Senate, will make a very active contribution as a colleague from Tasmania. I am sure that he will be making a very active contribution to the area of industrial relations, particularly to this important piece of legislation later in the debate.

The workplace relations bill represents the most radical and fundamental change in industrial relations in this country since federation. It is appropriate that this bill has spent some four weeks being examined by the Economics References Committee. It is appropriate that this legislation, which does represent such a fundamental change for Australian workers, has spent some time—not an inordinate amount of time—in public examination and, indeed, in the negotiating process before it passes through the Senate.

The Labor Party gave a commitment prior to the last election relating to our approach to the industrial relations system. We gave a commitment in respect of the fundamental independence of the Industrial Relations Commission, the awards system and our attitude to the rights of workers. Labor intends to honour that commitment in the Senate.

We oppose this bill. We do know, however—and unfortunately—that the bill will be passed. We do not know yet what its final form will be. On behalf of the Labor opposition, I, together with my colleagues, will be moving, when we move into committee, a series of comprehensive amendments that we hope will minimise the more draconian outcomes for Australian workers that this bill represents.

Industrial relations reflects a great deal about the way we are as a society. We are very fortunate that Australian society is unique. It has a unique egalitarianism. It has the unique characteristic of reflecting a fair go. We are very fortunate that Australia reflects those fundamental attributes.

The industrial relations system improves our capacity to deliver increased incomes to Australians and their families without reducing our ability to compete internationally or, indeed, reducing our ability to create jobs. Industrial relations is very important to our economy at both the macro level and the micro level—the workplace level—in respect of a number of matters: productivity, efficiency and flexibility.

Those words are used very widely in the industrial relations debate. In fact, I think they are overused in the debate. They are often used out of context. It is a fundamental mistake to believe that words like 'productivity', 'efficiency' and 'flexibility' can be used in the same way when describing other elements of the economy.

We are dealing with human beings when we talk about industrial relations, the law of contract, negotiations and awards. We are dealing with human beings and the fundamental protection of human beings from the exploitation that can occur. It is fundamentally different from other areas of the economy. It is fundamental that they have the protection that the industrial relations system in this country has provided since federation.

There is a range of factors that are fundamental to productivity—output per person—at the workplace level. Those factors are quite widespread, quite critical and just as important as wage outcomes. One element that is very important, for example, is investment. I will say a little more about that later.

One of the most important factors is harmony and creativity at the workplace level. They make substantial contributions to production and output. Nothing is more harmful and undermining of productivity at the workplace level than industrial disputes. Regrettably, we are seeing an increase in industrial disputes under this new Liberal conservative government which defies the downward record of 13 years of Labor.

The word 'flexibility' is used a lot in the industrial relations debate, but it must be balanced with fairness. Flexibility with fairness is fundamental to protecting Australian workers and their families. Regrettably, the object clauses of this bill, the Workplace Relations and Other Legislation Amendment Bill, lose the emphasis on fairness in that single-minded pursuit of flexibility that the Liberal Party has become renowned for.

The industrial relations system has a great influence on how families earn their income and how much time they spend not just at work working for their employer but together away from the workplace.

We do not believe that this bill will deliver anything like the economic benefits, particularly with respect to unemployment, that are being touted by Mr Howard, Mr Reith and other Liberal spokespersons on industrial relations. In fact, they are in the habit of setting up straw men. You set up an issue of unemployment and say it can be resolved by passing this industrial relations bill and the Senate should get on and pass the bill so the ills of unemployment can be cured. That is the nature of the debate—the simplistic and wrong debate that is being advanced by a Liberal federal government.

The evidence of the causative effect of unemployment and its relationship to an industrial relations system is very mixed indeed around the world. It is very mixed indeed if you look at the Australian experience in the states—Victoria, WA and Tasmania—that have moved towards so-called more flexible industrial relations systems. We have only to look at the industrial relations changes made by a state Liberal government in my own home state of Tasmania. Really it is very hard to advance any evidence that unemployment has been reduced as a consequence. In fact, it highlights the fact that industrial relations is but one fairly small element in reducing unemployment and improving employment in this country. It takes more than a miraculous industrial relations bill to create the economic nirvana and the consequent fall in unemployment that Mr Howard, Mr Reith and others in the Liberal Party would have us believe.

On the issue of productivity, which again is continually linked to an industrial relations system in this debate, over the entire period of the Labor government labour productivity in Australia increased at a faster rate than in comparable overseas economies—at approximately 2.5 per cent per year.

Before the election Mr Howard made a number of fundamental promises with respect to industrial relations. He made a widespread and widely quoted promise that Australians could be relaxed and comfortable under a Liberal government. Specifically, going to industrial relations, he gave an absolute guarantee that no worker would be worse off with respect to their wages and conditions as a consequence of Liberal Party industrial relations legislation. I reiterate the promise he gave: no worker would be worse off. He gave an absolute guarantee. I will come to these so-called absolute guarantees in a little more detail later on.

There is nothing in this bill that will make workers feel relaxed and comfortable. Labor has three fundamental concerns about this bill. Firstly, it represents an attack on, and indeed an isolation of, an independent Industrial Relations Commission. Secondly, it represents a fundamental attack on the award system which, as I said earlier, provides fundamental protection and fairness for Australian workers. Thirdly, it is an attack on the right to take effective collective action.

Underneath those three categories there is a long list of concerns that Labor has about this bill and its consequences. I wish to take the time of the Senate today on two particular matters. One is the effect of section 152 of this legislation and the other is with respect to superannuation. Section 152 of this legislation allows state agreements to override federal awards. I argue that the effect of section 152 makes a lie of Mr Howard's absolute guarantee that no worker can be worse off as a consequence of Liberal industrial relations policy and legislation.

**Senator Parer**—They might have jobs.

**Senator SHERRY**—'They might have jobs' is the interjection. As I said earlier, the evidence is very mixed that fundamental upheaval as a consequence of industrial relations law will create jobs. In fact, Senator Parer, in your own budget you play down the job consequences of this industrial relations bill, despite the recent utterances of Mr Howard and Mr Reith, although I notice on the record that Mr Reith, in a recent piece of correspondence to the *Economist*, at last admitted that industrial relations upheaval could result from this legislation. In fact, world experience shows that, if you want a

so-called freer labour market, there are some consequences of a freer labour market as workers in a stronger bargaining position pursue that and their right to industrial action.

Section 152 fundamentally reverses industrial law in this country. For the first time in this country, state jurisdictions will override the federal jurisdiction. That is a very important and fundamental change. In effect, at the present time, in at least three state jurisdictions, a trapdoor has been established through which hundreds of thousands of workers will fall. There are three states at the moment—and, of course, that number may increase—where Labor has particular concerns: Victoria, Western Australia and my own home state of Tasmania. In these three states, state agreements will override federal awards for the first time.

It is interesting that at the Senate Economics References Committee on this matter a Mr Stewart Crompton, representing the department—in other words, representing the minister—admitted under very close questioning that workers under state agreements that override federal awards could be worse off. I go to this one part of the transcript which I will quote. I put to the witness:

A worker under the Victorian act could, in fact, be restricted to those provisions that you have listed on page 29, and that is it.

Mr Stewart-Crompton:

If you have a worker under a federal award who agrees to enter into a state agreement, that person could agree to completely different conditions from those which exist under the federal award.

He was referring, in other words, to the 18 minima that are provided for in this bill. I then put to him:

And those conditions could be substantially less than those provided for in the federal award?

Mr Stewart-Crompton:

They could be different in any respect from the award.

I continued:

But they could be substantially less, could they not?

Mr Stewart-Crompton

Yes.

The witness finally admitted that workers under state agreements in Victoria, Western Australia and Tasmania could be worse off as a result of this fundamental change.

How would they be worse off? We all know that this legislation provides for 18 protections, and we do not think that is sufficient. But if we examine those protections, they go to issues of rate of pay, ordinary time hours of work, annual leave and leave loadings, public holidays, penalty rates, redundancy pay, notice of termination, standdown provisions, and there are some other matters there which are equally important.

But if we turn to Western Australia, Victoria and Tasmania, how are they protected by these 18 minimum conditions? They are not protected by them. In Western Australia, for example, there is a 15 per cent loading for casual workers; in the federal jurisdiction that is below standard. In Western Australia there are 10 days sick leave per year which are not cumulative; in the federal jurisdiction sick leave is cumulative. There are four weeks of annual leave, but there is no annual leave loading; in the federal jurisdiction there is. In Western Australia there are no weekend penalty rates or shift provisions; in the proposed federal act we are looking at, there are.

In Victoria the position is worse. In Victoria there is no protection for weekend penalty rates or shift provisions. There is no casual loading in Victoria. There are just five sick leave days per year, although they are cumulative. The position in Tasmania is even worse. There is no protection for shift provisions; no protection for weekend work; sick leave is the lowest amount of paid leave specified in any award; annual leave is the lowest amount of paid leave specified in any award; and with respect to other matters, it falls well short of these 18 minimum provisions that are outlined in this award.

What we will have, of course, are hundreds of thousands of workers in Victoria, Western Australia and my own home state of Tasmania who will enter into these so-called workplace agreements. The Liberal Party will argue that it is all voluntary—'don't worry, it's all voluntary; all these workers will do all

of this voluntarily'. The reality at the workplace is very different.

The fundamental issue of choice was harped on a great deal by the minister, Mr Reith, in his second reading speech in the House of Representatives. What is the choice? What is the fundamental choice of workers who start work after an agreement has been entered into? They do not have any choice. Those wages and conditions in Victoria, Western Australia and Tasmania will be substantially less than their counterparts in the federal award. Even with workers who do have a choice, who are involved in negotiations—and you still cannot get this through to Liberal politicians—bargaining power is not equal at the workplace. You still cannot get through to Liberals in this country that bargaining power at a workplace is fundamentally tilted to the employer.

It is the employer who puts in front of an individual worker a contract and says 'sign it, or you don't have a job'. It is the employer who has the advice of lawyers, accountants and industrial relations specialists. Furthermore, it is the employer who fundamentally gives the employee the job, the employment. In that sort of power relationship, an employee is fundamentally disadvantaged.

That is why in this country, unlike most other countries around the world, we have an independent industrial relations system that plays a very important role, a strong role in industrial relations. It protects awards; it protects and provides minimum wages and conditions that are fundamentally important.

In concluding my remarks, this Workplace Relations Bill represents a betrayal to Australian workers. We will oppose it. Knowing that we cannot successfully defeat this legislation, we will be moving a substantial number of amendments to ameliorate its very worst aspects—because the absolute guarantee that John Howard has given is not reflected in this bill. This legislation is a betrayal of hundreds of thousands of workers around Australia who will be significantly worse off if it is passed. *(Time expired)*

**Senator KERNOT** (Queensland—Leader of the Australian Democrats) (5.45 p.m.)—The Workplace Relations Bill will affect the way wages and conditions are organised for millions of Australian workers. It is, as the government, the opposition and all of us acknowledge, one of the most significant pieces of legislation that we will deal with in this term.

It continues the process of change in labour market practice, which dates back five years to the second tier and structural efficiency award negotiation processes begun under Labor. I think it is really important to be reminded that this is a process that was begun under the Labor Party. More recently, we have seen this demonstrated in the Brereton-Keating reforms. This bill is the next step in the process of change from a totally centralised wage fixation system to one where bargaining at an enterprise level becomes more predominant.

The key issue for the Democrats is how much change? How much reform is appropriate? Do we need the revolutionary approach which we think is characterised in the current form of this bill? Would it be more appropriate to opt for a further evolutionary step providing for reform at a pace with which workers and employers can both be comfortable?

Democrats know from bitter experience the price of big bang reforms. We have heard it all before. We remember in 1983 when Paul Keating introduced financial deregulation we were promised all sorts of benefits. Only the corporate cowboys got them and 10 years later housing loans and credit card rates for households were higher than they were before deregulation. Big promises in that area were not delivered.

Competition policy was another Paul Keating special. We were promised $16 billion worth of benefits if the public sector were deregulated. So far all we have seen is the emasculation of the Public Service through contracting out, privatisation and massive increases in user pays charges to government services—another big promise not delivered.

Now the Minister for Industrial Relations, Peter Reith, and the Prime Minister, John Howard, are promising labour market deregulation on a big scale. They have even dusted

off the template first promised by Paul Keating shortly after the 1993 election and they have made it their own. John Howard is promising that this bill will help reduce unemployment. It is a view eminent economists such as Bob Gregory and Reserve Bank Governor, Bernie Fraser, and Deputy Governor, Ian Macfarlane, have poured cold water on and deservedly so.

To make that claim that there is a direct link between the passage of this bill by the Senate and unemployment rates actually ignores the fact that many other countries with more regulated labour markets than ours have achieved lower rates of unemployment—countries like Austria, Switzerland, Norway, the Netherlands and Japan. So it is not true to make that link. It is a very tenuous link at best.

Peter Reith says that his bill will not just increase jobs but increase wages and productivity—three things which any economist will tell you are almost impossible to achieve simultaneously. The Democrats think that the benefits of this bill have been greatly overstated by the government and we think that the costs have been greatly understated. In its rationale for why we need this bill, the government has sought to correct what they say is a weighting in the current act against employers and towards the unions. But in correcting the balance the risk is always that the pendulum may swing too far in the other direction.

As it stands, the bill is in the Democrat's view too heavily balanced now against the interests of ordinary workers. It fails to take into account that there is a natural basic imbalance already in the employment relationship where the employer usually ends up holding all the trumps in bargaining with their employees. That is a natural power relationship. No bill is going to really change that and any industrial relations bill must acknowledge it. The bill in its current form we believe is unbalanced, unfair and insupportable.

Having said that, the Democrats recognise that the current system also is not perfect. Our award system, while comprehensive, is at times too bogged down with unnecessary detail and is difficult to use. The privileged role given to unions under the current legislation allows them to use the right to be heard on agreements as a tactic to force their presence into work places where they have failed to attract the support of members.

The system is not sufficiently inclusive in dealing with the vast majority of workers, particularly in the private sector where workers are not represented by unions. It is geared towards the needs of big unions and big business—the squeaky wheels of the industrial relations debate. It often fails to provide a sufficient level of flexibility for the small business sector in the application of award provisions. Our current industrial relations system in our view does not sufficiently encourage the flexibility needed to increase the productivity of crucial high value, high skilled workers because this bill has a one size fits all mentality. We see those as some of the weaknesses of the current Industrial Relations Act. But we would like to also look at the strengths.

The great strength of our current industrial relations framework is that it does look after the interests of the low paid, the disadvantaged and those with little or no bargaining power. The Australian Industrial Relations Commission and the award system have provided an important floor in wages ensuring that Australian wages do not sink below a reasonable level, creating the working poor we see in the United States and increasingly in the United Kingdom and in New Zealand.

The centralised wage fixation system has worked particularly well for women. The differential between male and female workers is narrower in this country than in virtually any other country with a decentralised system. These are the features which the Democrats believe we must retain and we must enhance. While allowing for an evolutionary step towards a more appropriate industrial relations framework, we should preserve what works well. We should preserve what works best with the system we have. That is why we have adopted the approach we have to industrial relations reform.

The processes which are working well now—the award safety net, the certified

agreement stream, the promotion of pay equity and equal remuneration for work of equal value—in the current act should be and must be retained. But there are processes which are not working well such as award simplification and modernisation, the non-award agreement stream and the enforcement of the commission's orders against recalcitrant unions. I would also include in that list provisions which can be used to force workers to join unions—areas of merit review and reform.

To assist in what is working and what is not, the Democrats supported the establishment of the Senate inquiry to take submissions from all interested parties. My colleague Senator Murray, who represented the Democrats on that inquiry, will address that process later in his speech on the second reading debate. I think the Senate should record appreciation for the enormous amount of pro-active work members of that committee undertook, with 18 days of public hearings, the consideration of over 1,400 submissions and the production of a 400-page report. The Democrats have developed our response to the bill based on the findings and the evidence of that committee inquiry.

Since the release of the inquiry report, it is well known that we have been meeting with Minister Reith, but also with peak employer and union bodies. The negotiations with the government have been, so far, very productive. They have focused on practical issues and practical changes and reforms. They have taken 35 hours so far because we have insisted on canvassing all issues of concern to us in great detail. We are fortunate that, unlike other ministers, Minister Reith has responded constructively to this, but clearly those negotiations still have some way to go.

Nothing in our discussions precludes comprehensive consideration of this bill and any amendments moved in the Senate. I respect the right of the Labor Party and others to vote against this bill and I respect their right to move hundreds of amendments, because that is the real strength of this chamber as a house of review.

The Democrats perceive the need for evolutionary change, not revolutionary upheaval, in industrial relations. We are not interested in the ideological baggage that we think both the ALP and the coalition seem to bring to industrial matters. We do not see this as a black and white issue—we do not see this as worthy of the ritual stag fight in this place—but in engaging the debate, we are acting from three fundamental principles.

The first is that we see the maintenance of a fair, up-to-date, enforceable and user friendly award system as absolutely vital and an important protection for workers and for small businesses with little bargaining power. The second principle is that we support the need for a strong and impartial umpire in the Australian Industrial Relations Commission to protect the weak against the strong. The third principle is that we believe the government must keep its commitment, the commitment it made to workers before the election, that no worker would be worse off or lose award entitlements.

We do not support ideological attacks on the rights of unions to organise and operate in a reasonable manner. We do support encouragement of workplace bargaining, particularly on a collective basis while also allowing for individual bargaining in those cases where it might be more appropriate, particularly amongst high value, high skilled workers.

It remains the Democrats' belief that an amended bill should pass the Senate, but we do not yet know if the amendments which will be insisted on by the Democrats will be acceptable to the government. On that basis, I cannot predict whether this bill will become law. I can predict one thing, however: any workplace relations bill which becomes law with Democrat support will be a much fairer bill and a much more balanced bill than the one currently before us.

**Senator COLSTON** (Queensland) (5.57 p.m.)—The Senate is today debating the much publicised Workplace Relations and Other Legislation Amendment Bill 1996. In this regard it is worth while that we pause to reflect that there are certain matters embedded in the fabric of Australia's economic, social and cultural framework which are intrinsic to our way of life. Such matters have a great deal to do with the expectation of ordinary

Australians, not only for our generation but for many generations to come. They are matters so basic that to change them arbitrarily without a thorough examination of all the possible consequences would be wanton and destructive. The way we have dealt with the regulation of work is one such matter.

A sound system of industrial relations law would offer protection for employees, for employers and for the public. It is a delicate balancing act to ensure that, in providing attention to competing interests, there is no bias, intended or otherwise, which places one or more of these groups at a disadvantage. I regret that my reading of the bill indicates that the balancing act to which I refer has not been achieved.

It is well established that the seeds of Australia's existing industrial relations framework were sown in the turbulent era of the 1890s, in the great strikes of the early part of that decade. This part of our history demonstrates the consequences of ignoring the fundamental inequality of the bargaining power of employees in relation to that of employers. It is no accident that many of the existing industrial relations mechanisms grew from the need to protect employees from the unfair and inequitable use of this bargaining power.

The lessons learned late in the 19th century are as relevant today as they were for our constitutional founders, who saw the vital need for this parliament to be given broad powers to provide a proper mechanism for the prevention and settlement of interstate disputes. Perhaps a little less understood is the extent to which our industrial relations system has evolved to meet changes in our national character over the best part of the last 100 years.

It should be recognised, however, that the crucial elements of that system have remained unaltered and the philosophy of our industrial relations system has endured. In particular, the recognition of the inequality of the employment relationship and the need to maintain and protect mechanisms of collective bargaining and compulsory arbitration have been fundamental to the fair, proper regulation of the employment relationship. This foundation to our law takes into account and safeguards the interests of the three groups I mentioned previously—employees, employers and the broader public.

The primary goals of the Conciliation and Arbitration Act 1904 have been retained for almost a century. Among those goals are the orderly conduct of industrial matters, the protection of workers and, within reasonable limits, the restriction of state interference in the conduct of industrial affairs.

In order to achieve these goals, the legislation provided mechanisms to enable various parties to pursue their objectives. These mechanisms included the establishment of a federal tribunal with a broad and unfettered power to prevent and settle industrial disputes by conciliation and arbitration. To protect the interests of employees further, the legislation encouraged the establishment and growth of the union movement to facilitate the effective and fair representation of workers' interests.

I have concluded that, if this bill were to become law, it would unhinge the mechanisms which have successfully regulated the work relationship between employers and employees in this country. Indeed, it is necessary to go no further than the stated objects of the bill to see that the employment relationship will be unfairly biased towards employers under this proposed legislation. There is no mention in those objects of the concept of fairness and the interests of employees. The bill, therefore, leads to the erosion of the protection afforded to employees under the current industrial relations legislation.

The framework of the system proposed by the bill rests upon policies of abolition and restriction as well as the creation of spurious safety nets. I cannot accept the government's claim that its reforms will support a more cooperative relationship between employers and employees. In contrast, I fear that the government's reforms could bring the two parties into sharp and bitter conflict, unable to be satisfactorily resolved by reference to the proposed legislation. This would be the inevitable result of removing the buffer of protection from workers, thereby tipping the scales heavily in favour of the employer.

I do not propose to canvass all the concerns I have about this legislation but rather to highlight a number of issues which should weigh heavily on the minds of all members of this chamber. I shall first mention the issue of awards. There is no doubt that the bill proposes to alter the award making system beyond recognition and in a way which will seriously jeopardise many of the rights and conditions of employment which workers currently possess.

I have heard claims that the changes will simplify the award process. But stripping back award conditions is hardly acceptable simplification. It is a strategy which leaves the real worth of awards depleted and undervalued.

Five proposed restrictions of the Australian Industrial Relations Commission award making powers deserve particular mention. First is the restriction of the Commonwealth's jurisdiction to arbitrate industrial disputes beyond the so-called 18 allowable matters. It is difficult to support any provisions which limit the commission's powers to make awards to any matters which pertain to the employment relationship.

I am particularly concerned that the government's approach will result in the loss of important award entitlements—entitlements which have been gained over many years of struggle. This is not only unacceptable but it is also a direct breach of the commitment of the Prime Minister (Mr Howard) that 'No worker in Australia under the Howard industrial relations policy can have his or her award conditions taken away'.

The proposed exclusion of important items from the commission's jurisdiction cannot be at all helpful to the work force. The denial of award provisions relating to superannuation will see workers suffer financially and will potentially undermine one of the most important aspects of employees' security.

Similarly, the removal of provisions relating to occupational health and safety and accident make-up pay has the double effect of increasing the risk of injury and reducing compensation for workers who are injured on the job. These examples reinforce the point that anything less than a broad and unfettered power of the commission will have a profound and detrimental effect on working Australians.

In relation to occupational health and safety and compensation, it is sobering to reflect on the number of workplace injuries suffered by employees this century. For the latest year for which detailed figures are available about 500 workers lost their lives in Australia as a result of accidents at work. This is a shocking figure—well over one death for every day of the year. On top of that, there were countless numbers of workers injured in that year, some of whom will never be able to work again.

Against these figures it seems inconceivable that occupational health and safety would be removed from the commission's jurisdiction. The inevitable consequence of a decline in the powers and functions of the Australian Industrial Relations Commission as an arbitrator, an award maker and a peacemaker will be an unacceptable reduction in the standards of living of Australian workers.

Second, I refer to the proposed abolition of paid rates awards which almost inevitably will result in reduced wages and conditions for a large number of workers such as teachers, nurses, public servants and others who are either unable to bargain or where it is impracticable to rely exclusively on bargaining. As far as I am aware there has been no valid case put forward explaining why paid rates should be abolished and why employees relying on those rates should lose what can be substantial entitlements.

Third, I cannot agree with the proposed section 152, which allows employers and employees to effectively contract out of a federal award by having state agreements override the award provisions. I can see no reason why state agreements should be used to avoid properly set out and appropriate protections.

Fourth, the fast-tracking provisions, which have operated to enable employees to transfer matters from the state to the federal jurisdiction where appropriate, will be removed. It is difficult to support this change. Similarly, it is hardly possible to support the bill's proposal to make access to the commission more difficult. The combination of these proposals—the removal of fast-tracking and more

difficult access to the commission—impacts on the ability of employees to speedily challenge inequitable workplace conditions. Given that an industrial relations system should provide speedy, cost-effective and accessible remedies, there is no justification for placing legal hurdles in the way of the fast-tracking process.

Fifth, I have particular concern about the abolition of the requirement to protect especially vulnerable members of the work force, such as young people, those from non-English speaking backgrounds and women. In this regard, the government's proposal to abolish the power of the commission to ensure equal remuneration for work of equal value is particularly disturbing.

I now turn to the issue of agreements and first mention certified agreements. In Mr Howard's election manifesto, he said that he would repeal enterprise flexibility agreements and retain the existing certified agreement provisions. In this regard, the Senate should insist on the retention of the no-disadvantage test, which ensures that agreements do not, as a whole, reduce award standards. Further, it is difficult to support changes which allow agreements to be terminated unilaterally once they expire, rather than the existing arrangements which allow agreements to continue until another agreement is made or until the commission varies the agreement.

In relation to agreements, I have concern that the government has decided to remove the commission's ability to require parties to bargain in good faith. Surely a greater emphasis on agreement making would make such a jurisdiction by the commission more necessary rather than less so.

I now mention Australian workplace agreements. The introduction of these agreements constitutes a further shift away from the principles of collective bargaining which have historically strengthened workers' claims for wages and entitlements. While allowing for the appointment of bargaining agents, the bill clearly discourages the involvement of unions and the Australian Industrial Relations Commission in the development of Australian workplace agreements. This is a measure which would reduce the opportunity for scrutiny and the protection of workers' rights. Indeed, this proposal seeks to reinforce the bargaining strength of the employer while offering nothing to the employee.

If Australian workplace agreements are to be recognised, they should be restricted to formalising over-award bargaining and not be permitted to undermine award conditions. These agreements should be subject to scrutiny by the Industrial Relations Commission to ensure compliance with the protection afforded by the legislation passed by this parliament and unions should be parties to such agreements where the affected employees are union members.

No comment on this bill would be complete without special mention of trade unions, because the bill proposes numerous changes which, if enacted, would adversely affect trade unionism in Australia without providing any viable alternative. In addition, other provisions in the bill inappropriately seek to limit the involvement of unions in the affairs of their members. This combination of arrangements would unacceptably weaken trade unionism and its capacity to contribute to the fair and proper regulation of industrial matters.

The existing legislation strikes the correct balance between encouraging the existence of trade unions, which provide employees with an effective voice, and the need to regulate their affairs without being unduly intrusive. This ensures a proper balance is achieved between employees' claims and the potential for disruption which might affect the public interest adversely. On the other hand, the bill under consideration attacks the whole system of registered organisations and, in particular, the current protections those organisations afford to workers.

I intend to highlight a number of issues—the first of which is right of entry. The bill's proposed restrictions in relation to right of entry undermine effective arrangements that ensure compliance with award standards. The existing arrangements, which allow unions to enter premises to inspect work and wage records, are important for the purpose of ensuring award observance. The bill places many restrictions on unions' right of entry,

including the need to obtain an invitation from a member, the need to provide notice and the need to visit a site out of hours.

Given that there has been little complaint from either employees or employers about the current operation of these provisions, I can see no reason to alter a cost-effective way of ensuring maximum award compliance for all employees. Any suggestion that the right should be available in relation to only union members ignores the important point that both members and the broader community have an interest in ensuring that award breaches of both members and non-members alike are identified and dealt with. Any restrictions to the right of entry would undermine the existing award system.

Industrial action is an emotive topic, but it is a right which must be retained. While the bill purports to maintain the ability of unions to take industrial action in support of proper industrial claims, some aspects of the bill seem to go in the other direction. The reintroduction of sections 45D and 45E of the Trade Practices Act in its original 1977 version seems to cover primary boycotts as well as secondary boycotts. This is not acceptable. The prohibition of industrial action after the making of an agreement, even where the matter in dispute is not covered by the agreement, is unduly harsh, given that it prevents unions and their members from protecting their interests.

Further, I note with great concern that the government proposes substantial increases in penalties associated with the taking of so-called unlawful industrial action. I would have thought the proper emphasis of any act dealing with industrial relations should be about creating greater scope for the settlement of disputes rather than promoting an emphasis on legal action that can only magnify any dispute between industrial parties. This is particularly so where such action can threaten the viability of the union concerned or of its officials.

A further issue of importance is union preference. The existing act provides a proper balance between promoting collective bargaining through registered organisations and freedom of association. Preference to unionists, where such is necessary to support and maintain collectivism in the workplace or where agreed to between the industrial parties, is important in the promotion of collective responsibility in the workplace and the encouragement of registered organisations.

The ability of an employee to avoid the effects of preference by seeking conscientious objector status means that those who do not truly wish to belong to a union can do so without disadvantage. There is no justification for removing the powers of the commission to award preference or for making void such arrangements as may be agreed to between employers and employees. The removal of union preference simply encourages those who choose not to be members of a union but who readily accept wage increases and other conditions won by unions for their members.

Three other matters are of importance, but I will not expand on those today. They are unfair dismissals, independent contractors and matters pertinent to young people—apprenticeships, trainees and youth wages.

In conclusion, I reiterate that I have grave concerns about many proposals in this bill. It fundamentally undermines conditions which have been fought for and won over long periods of struggle. From the comments I have made, it should not be surprising that I will be voting against the second reading of this bill. However, if it passes at the second reading and proceeds to the committee stages, I will be looking favourably at amendments which, if adopted, would remove some of the bill's objectionable provisions.

Debate (on motion by **Senator Kemp**) adjourned.

## GOVERNOR-GENERAL'S SPEECH

### Address-in-Reply

Debate resumed.

**Senator HARRADINE** (Tasmania) (6.17 p.m.)—The amendment to the address-in-reply motion reads:

", and the Senate is of the opinion that no part of Telstra should be sold."

I move an amendment to that amendment:

After "sold", add "without the approval of the parliament".

That amendment to the amendment, if carried, would have the amendment reading:

", and the Senate is of the opinion that no part of Telstra should be sold without the approval of the parliament."

I believe that amendment is self-explanatory. Matters of such great public moment should, of course, ultimately, in a parliamentary democracy, be the subject of determination by the parliament.

**Senator FAULKNER** (New South Wales—Leader of the Opposition in the Senate) (6.19 p.m.)—I briefly indicate the view of the opposition. The opposition will support the amendment that has been moved by Senator Harradine. We are, of course, opposed to the sale of Telstra by extra-parliamentary means. This does not alter our absolutely implacable commitment to oppose the sale of Telstra by legislative means, a commitment that we gave to the Australian people very clearly during the last election campaign and one that the opposition intends to honour.

Question resolved in the affirmative.

Amendment, as amended, agreed to.

Motion, as amended, agreed to.

Ordered that the address-in-reply be presented to His Excellency the Governor-General by the President and such senators as may desire to accompany her.

**The ACTING DEPUTY PRESIDENT (Senator Patterson)**—I inform honourable senators that the President has ascertained that His Excellency the Governor-General will be pleased to receive the address-in-reply to his opening speech at Government House on Wednesday, 9 October 1996 at 12 noon. I extend an invitation to all honourable senators to accompany the President on the occasion of its presentation.

## WORKPLACE RELATIONS AND OTHER LEGISLATION AMENDMENT BILL 1996

### Second Reading

Debate resumed.

**Senator CHRIS EVANS** (Western Australia) (6.20 p.m.)—I seek some clarification. We have an agreed speakers list that the government does not seem to be meeting. I would like some explanation as to whether or not the government is going to provide speakers as agreed on this list. We have some confusion on our side. Senator Boswell was down to speak and has not. I have undertaken to provide our speakers or replacements for those people who want to drop off, but we do not intend to replace government speakers as well. The agreement for tonight was that we go to midnight on the agreed speakers list.

**Senator Hill**—If you don't speak, you miss altogether.

**Senator CHRIS EVANS**—I would just like some indication as to what the government is doing here. We are finding that people are disappearing off the speakers list. Are they returning or are you withdrawing your speakers? Are you expecting us to maintain the whole speaking list for the evening? If that is the case, it is rather late notice. I want some clarification as to what is happening.

**Senator O'CHEE** (Queensland) (6.21 p.m.)—by leave—It is our intention, as much as possible, to follow the speaking list. We understand that there was some confusion in relation to Senator Colston being given the call. I understand that is why Senator Boswell is here. Certainly, it is not our intention that people should be given two bites of the cherry and we intend to attempt to follow the speakers list as much as possible. Obviously, Senator Evans, your side of the chamber has indicated a strong desire to debate the bill, and we would expect, of course, that you would have your speakers ready to debate at the appropriate moment. As is always the case, you can never guarantee that a person is going to speak for their full allocated time.

**Senator CHRIS EVANS** (Western Australia) (6.22 p.m.)—by leave—I just wanted some agreement to the proposition that if government speakers do not wish to speak this evening they will be replaced by other government speakers on the list—or are we saying that those people are not to speak again? We had an agreement about no quorums and divisions tonight, and that is facilitated by having an agreed speakers list so that people know when they are going to speak. Our first 10 or 12 speakers are prepared

because we thought we would get to about 20 speakers tonight. If your people drop off, clearly some of our people later on the list may have gone home because there are to be no divisions later on in the evening. I am trying to get some agreement about maintenance of the arrangements. Given that we had an agreement about quorums, divisions, sitting late, et cetera for proper functioning of this debate, if the government has speakers who are dropping off I would expect they would be replaced by government speakers.

**Senator HILL** (South Australia—Minister for the Environment) (6.23 p.m.)—by leave—The request is a reasonable request and I think there should clearly be discussions in five minutes when we get up for dinner, but I make the point that we are not encouraging more speakers. If some of our would-be speakers have, on reflection, decided that their contribution is unnecessary, that is something that I would welcome. What would be wrong is if they then had the opportunity to revisit the debate later on. I suggest that the whips sort that out at half past six—it is only a few minutes away. We are not trying to be difficult; we are trying to be cooperative.

**Sitting suspended from 6.25 p.m. to 7.30 p.m.**

**Senator JACINTA COLLINS** (Victoria) (7.30 p.m.)—Second reading speeches, I have been informed, usually concentrate on in principle issues regarding a bill. However, the government has provided very limited discussion or substance regarding the principles underpinning the Workplace Relations and Other Legislation Amendment Bill 1996. It has been clearly revealed that it is ideological in its drive rather than substantial. Whilst considerable concerns have been clearly outlined by a large variety of groups and individuals, response from the government has been focused on attacking and misrepresenting the messenger rather than dealing with the message, as I have said earlier, that is, playing the man or the woman rather than the ball. But I can assure Senator Alston that, on this bill, I am far from deluded.

From our side, the Senate Economics References Committee's report on the bill provides substantial detail on the many concerns with the legislation. I do not intend to cover that ground again because I think it is time to highlight the appalling responses that this government is making to the genuine and valid concerns raised not only in the committee's report but also in various other areas. Let me deal with things chronologically from the time I tabled the Senate Economics References Committee's report on this bill—I covered many other issues before that time.

Senator Mackay has already covered the significant deficiencies in the government members' minority report. Frankly, given the assistance to government members of the committee from the minister's office and from the Western Australian Chamber of Commerce and Industry, the report is an embarrassment.

**Senator Crane**—Ha, ha!

**Senator JACINTA COLLINS**—It is a pathetic piece of macrame, a cut and paste, a very selective representation from a very limited number of employers, the Department of Industrial Relations and the good senators themselves, I note, Senator Crane.

**Senator Crane**—Get your eye back on the ball.

**Senator JACINTA COLLINS**—My eye is certainly on the ball, Senator Crane. The cut and paste that government members put into the report is an embarrassment. Some slabs, such as Reg Hamilton's comments in relation to section 111 and proposed section 152, do not even get to the point that Senator Crane thinks they do, to the embarrassment of some other government members. Senator Crane is familiar with this problem, but it is amusing that the government members do not even attempt to deal with the submission which highlighted their several technical misunderstandings throughout the inquiry. Uncharacteristically, there is not even an attempt to discredit that submission to the inquiry. On looking at further detail in your report, I am sorry guys, but at least one of you admitted that there was no way known you were going to read all of the submissions to the inquiry, even though you claim you did. But these are all side issues.

What is far more important is what the government members ignore. They ignore the 78 community organisations that made submissions to the committee criticising various aspects of the proposed legislation. They ignore the 14 law firms and other organisations of lawyers that made submissions, all except one raising significant concerns with the bill. They ignore the 12 academics who made submissions to the committee, apart from Judith Sloan, all of whom—except Judith Sloan—express reservations regarding key areas of the bill. Worse still, this government, which is meant to be supporting the battlers, ignores or writes off over 1,000 submissions from individuals expressing deep concern about the bill, individual letters written to the Senate highlighting, in the main, the unequal bargaining position they experience on a day-to-day basis in their workplace.

Even aside from the submissions that came to the committee, government members also—and the government too—ignore concerns raised by groups such as the New South Wales Young Liberals. They are ignoring their own. They are ignoring well-respected commentators such as Ita Buttrose and the concerns she has raised with the bill. They are ignoring concerns from business in Asia, except to try to remove sensitive comments from the Prime Minister's speech in Japan, that is. In their speeches to the tabling of the report, government senators continued this approach and, along with the minister, focused on either ignoring or attacking and misrepresenting those raising concerns rather than dealing with the principal issues.

Senator Crane, in his speech, went so far as to attempt to link the Canberra rally with the report of the committee, a connection which is ludicrous, given the timing of the inquiry and the report—another very cheap attempt to divert attention from the large number of concerned Australians who made submissions to the inquiry. Along these lines, the minister's press release on the day of the report deserves a closer analysis. It highlights the type of approach that has been taken to date. It starts off with, 'After a three-month delay.' There was no delay in this committee reporting back. In fact, the vast amount of work that was put in by the government, opposition and Democrats senators involved in this inquiry to ensure that we reported back on time should be acknowledged.

As is the norm, this legislation will be processed without delay. Things such as an additional late night sitting to deal with second reading speeches, and speeding up Senate inquiries and their reports, have been put into place. The only thing the government did not get to do with respect to this bill was to be able to avoid their own cut-off motion.

The minister then goes onto personal attacks, and that behaviour was also demonstrated by some of the government senators in their speeches relating to the tabling of the report. The first point he makes is the majority of members had at least 55 years of union membership or employment—how disgusting! Union membership must be a disease. I am very sad to say it, but, once again, you have it way wrong. My calculation is that it is actually 105 years of unionism, not 55 years. I am not embarrassed by that fact.

The next point is that one ALP committee member actually drafted and signed a union submission. Again, you are wrong. Senator Bishop was not a committee member at the time he made a submission to this inquiry. He had not taken office at that time. Even once he had taken office, he was not a member of this committee for the purpose of this inquiry. In fact, we had the ludicrous situation of his wanting to participate in the hearings in Perth and being unable to because he had not been made a participating member of the committee.

**Senator Crane**—You slipped up there, didn't you!

**Senator JACINTA COLLINS**—Yes, we did actually, but we did not slip up in the sense that the minister is referring to. We certainly did not slip up so far as or anywhere near to compare to the conduct of Jeannie Ferris when she was elected. That is a very small comparison.

Let us get onto the next point which people seem to want to focus on. Again, the minister says:

. . . in fact he—

that is, Senator Sherry—

spent two weeks of the hearings in Bali.

How disgusting! Again, this is outrageous. What actually transpired was that the opposition decided that as far as possible it was important to have a shadow minister attend this inquiry so we were as familiar as possible with this bill. We did not see similar behaviour on the government's part. I would not normally comment on such issues, but neither would, I suspect, Senator Ferguson except under the minister's pressure—and that is what he did in his response to the tabling of this report. The coalition should not throw stones.

Yes, we had a shadow minister on this inquiry for two weeks. We had no minister. We have seen no minister in relation to this bill so far. I wonder what delusions Senator Alston will show in relation to this bill when he does finally turn up.

I am very pleased to see that Senator Ferguson has actually returned. I was afraid we were going to be debating this bill whilst he was overseas. In looking at the participation of the government members, we have seen no real industrial relations expertise or interest, just the ideological agenda.

I came under some criticism in relation to the programming of the inquiry. Coalition sources put forward the story I was looking after my long weekends rather than this very concentrated Senate inquiry. Let us have a look at what really transpired.

Senator Ferguson's desire to attend another committee on Christmas Island actually compromised the program of this inquiry. On experience, I would not allow an inquiry to meet so soon after the close of submissions. It put us behind with submissions right through the course of the inquiry. Senator Crane did not attend the whole program. He made us change the program for the inquiry in relation to North Queensland, but he did not turn up. Senator Chapman was actually in the United States when we concluded the public hearings. As I said, I normally would not resort to those sorts of tactics, but it has been most unfortunate to see the extent to which government members have been prepared to go. I now feel it is time to place some balance on things.

Moving on, back to the minister's press release, his next stage was to actually look at some substance. He tried to address what the majority report actually found. But, again, we have misrepresentations of the conclusions and of the recommendations. He said:

The Majority Report:

rejects award simplification . . .

This is not the case. The majority report rejects the government's version of award simplification. Their version of award simplification is actually award reduction down to 18 allowable matters. He then goes on to claim that we reject:

. . . proposals to fix Laurie Brereton's absurd, job-destroying unfair dismissal provisions.

This is not the case. They are not the recommendations. They are not the conclusions. I defy anyone to actually find our saying that. Let me go instead to what we do actually say in this report just in case some government senators—and some of them were on the committee—do not refer to them. It states in relation to unfair dismissal:

The Labor members of the Committee recommend that the full extent of constitutional power should be used to provide Federal coverage to all Australians.

The Labor members of the Committee also recommend that the proposal to permit adjustment of compensation depending on the viability of the employer . . . should not be implemented.

Finally, the Labor members of the Committee recommend that the Bill should be amended so it does not provide access to costs in the Commission's unfair dismissal jurisdiction . . .

To me, that does not sound like outright rejection in the minister's mind. The next point the minister makes refers to junior rates. The press release says:

The Majority Report:

. . . . . .

rejects the retention of junior rates, thereby threatening the jobs of 220,000 young people.

Again, let us look at what we do really say in relation to youth wages. At 5.77 of the report we say:

While some employers have indicated that there remain significant problems in relation to the development of such a system in particular industries, the majority of the Committee notes the relative short time that this approach has been tested and we also note that significant progress has been made in some areas.

This is in relation to the removal of age discrimination. The report also notes the submissions that were given to the committee by the retailers where they say on the one hand, yes, they do prefer junior rates, but they have actually worked out a competency based system which will work and will not really lead to thousands and thousands of job losses. Again, the minister does not say that.

The minister did conclude by saying that the majority of the committee simply acquiesced to the ACTU's hijacking of the inquiry. I take offence at that. I acquiesced to nobody. In no way did I acquiesce to the ACTU in relation to the conduct of this inquiry, and I defy the minister to prove otherwise.

What of the influence of big business? I will not deny the influence of the ACTU, but let us look at the influence of big business. It was interesting that employer organisations met in Canberra on the commencement of the second reading debate in the Senate. It was amusing that, hypocritically, they sought to portray their interest in employment growth. These are the employers who have introduced new words like 'downsizing', but they are really interested in employment growth.

Business did not display the interests that the government had hoped for in the inquiry, despite the attempts of the Australian Chamber of Commerce and Industry, the state chambers and employer organisations to solicit employer submissions and despite Senator Crane's solid attempts to solicit submissions to the inquiry. What government members of the committee did not do was compare an ACTU letter to affiliates with the attempts of business and other organisations to influence the inquiry.

Big business did have an influence in this inquiry, and they certainly have had an influence in the framing of this bill. Some groups, such as the Western Australian Chamber of Commerce and Industry, who travelled with Senator Crane first class around Australia, had an enormous influence. It seems that that is okay.

There is, of course, little substance in these types of attacks, nor with the recent attempts by the minister to portray divisions within the ACTU or divisions within the Labor Party rather than deal with the substance of this bill. Most of them have been analogous to amusing little fairytales. The approach by the government has been, as stated by Senator Kernot, a smokescreen. The minister has also, until his recent silence, been misrepresenting the dealings with the Democrats. We all know that Penthouse Pete has been no Honest John.

Let me look now at the second reading speech, because there are a few illusions floating around in that as well. Again, it starts by ignoring very important facts, such as that the President is a woman. But of course this is consistent with the government's approach to women's organisations—ignoring them! None of those women's organisations support the bill.

There is also no substance to the productivity claims that have been stated in the second reading speech. There is no substance to the mandate claims. Let me concentrate on a few points in that respect. Page 3 of the report states:

Upon coming to Government, the Coalition elaborated—

elaborated was the polite word; 'expanded' was what I would have preferred to have been said—

on its industrial relation policies in a number of areas.

Prior to the election we had never heard of this theme of 18 allowable matters. We certainly had never heard of section 152, completely reversing the balance in terms of state and federal industrial jurisdictions that have been in place for near a century. The report goes on to state:

Significant changes to the regulation of registered organisations were also proposed. It would be a requirement that unions amend their rules to allow for 'autonomous enterprise branches'.

There is no choice there. It goes on:

Provisions for the disamalgamation of previously amalgamated unions would be introduced as well as changes to the requirements for registration.

The right of entry of union officials to ensure compliance with awards and agreements was to be restricted.

And these were all new things! There has also been no substance to the claims of wide and effective consultation. The only thing that the government indicates in response to the various women's groups is with respect to the retaining absence of discrimination as a precondition to the certification of agreements. Nothing on the various other problems was raised. This government pretends that for workers ignorance is bliss. But the response from the Australian community to this bill shows that very few have been fooled.

The government talks about freedom of choice but fails to acknowledge that the level of choice is dependent upon access to resources or to the overall bargaining position. The fundamental problem with this bill is that it does not recognise that there are frequently unequal bargaining positions between employers and workers.

The bill is also inconsistent in respect of which choices it is prepared to provide freedom for. For example, in some enterprise bargaining agreements the parties have chosen to process a consent award. This bill will simplify them into matters that the government, in all its wisdom, believes to be important. There is no room in this bill for those choices. There is no room in this bill for the choices, for instance, of over 200,000 retail workers.

Another example is that in some enterprise bargaining agreements the parties have chosen to acknowledge union involvement in their workplace and promote union membership. Such collective choices will not be possible under the purported freedom of association provisions. However, individual choices can be overridden by collective matters. *(Time expired)*

**Senator CRANE** (Western Australia) (7.50 p.m.)—I address a number of aspects with regard to the Workplace Relations and Other Legislation Amendment Bill 1996. I must particularly thank Senator Jacinta Collins; I do not think my name has ever been mentioned so many times in a speech before. If ever I have been put on the map, it is right now. Far from feeling embarrassed about the report that we brought down, I feel very proud of the fact that we actually represented the other side of the story that was presented in the majority report in terms of this matter, which otherwise would have gone missing—it would not have been there for people to address. We did not try to interpret that particular story that was given to us; we put it down as the people said it. I believe that one of the key points of the Senate's inquiry system is that we accurately reflect what the witnesses who come before us say.

I also wish to make an observation; I am rather interested in it myself as an individual. Could I actually make you change the program? I thought we had a discussion where we agreed between ourselves to a number of considerations to fit all members of the Economics References Committee.

**Senator Jacinta Collins**—Why didn't you go to North Queensland?

**Senator CRANE**—I missed out on two days of that hearing—Townsville and Cairns—but I was in Brisbane.

**Senator Jacinta Collins**—But you made us change the program.

**Senator CRANE**—I did not make you change the program. That is an absolute nonsense. At no stage did I endeavour to denigrate my fellow senators in this particular inquiry. I am interested in Senator Collins's reference to 'the solid attempts of Senator Crane to solicit people'. What a nonsense!

**Senator Jacinta Collins**—You said you faxstreamed.

**Senator CRANE**—I faxstreamed people and told them that the inquiry was on, but I never said to come and put things in. I faxstream on a whole range of issues. There is nothing new about it. That is what faxstreaming is about. That is why we are here, and they are the facilities we have. Included on my faxstream are a number of unions, which you might find rather interesting. It includes those that I have been involved in all my life, like the farmers federations and organisations around Australia.

I start my contribution by quoting what Paul Keating said in 1993. It is very interest-

ing. There is no doubt that what the previous Prime Minister had in mind is precisely what we are doing now. It is precisely what we have brought before this parliament. He said that Australia needed a model of industrial relations 'which places primary emphasis on bargaining at the workplace level within a framework of minimum standards provided by arbitral tribunals'. He also said:

> . . . compulsorily arbitrated awards and arbitrated wage increases would be there only as a safety net.

Aren't the words familiar? He said:

> The safety net would not be intended to prescribe the actual conditions of work of most employees, but only to catch those unable to make workplace agreements with employers.
>
> Over time the safety net would inevitably become simpler. We would have fewer awards with fewer clauses.
>
> For most employees and most businesses, wages and conditions would be determined by agreements worked out by the employer, the employees and their union.

The only difference in our particular position—

**Senator Jacinta Collins**—Over time!

**Senator CRANE**—You can jump up and down and yell all you like. One thing that I did agree on—one of the things; there were a couple of others where I agreed with the previous Prime Minister, such as the deregulation of the financial system. The reality is that in this particular case the former Prime Minister had it right. But he was overridden by people like Senator Jacinta Collins and others around the place. As I have said before, when Laurie Brereton trundled off to the ACTU conference, he was sent back here very smartly. That held back industrial relations reform in this country for some three years.

A number of aspects have been raised, and I am going to deal with them as quickly as I can. One is our mandate. The previous speaker read out a number of things. If she had carefully read the policy, she would find that they are all there.

**Senator Jacinta Collins**—We did and the secretariat did, too.

**Senator CRANE**—I suggest that you go away and read it. If you like, I will give you a hand. I can understand English. I can make it simpler for you.

**Senator Jacinta Collins**—I don't want your help.

**The ACTING DEPUTY PRESIDENT (Senator McKiernan)**—Order! Perhaps if you addressed your remarks through the chair, Senator Crane, there would be fewer interjections. I just ask you again, Senator Collins, to desist.

**Senator CRANE**—I shall, Mr Acting Deputy President. The first mandate, which was absolutely crystal clear and has been for many years, relates to our position on industrial relations. It was for the simplification of awards, the development of more freedom in the workplace and the right of negotiation between employers and employees.

In putting these particular propositions before you, I make what should be an obvious statement to everyone—obviously, to people on the other side of the chamber it is not. Employers and employees are not enemies in the workplace. The number of times that we heard that there was some battle going on out there disturbed me.

Another thing that disturbed me very much—I am sure you would be interested in this, Mr Acting Deputy President—was that during the hearings they went back 15 years to dredge up examples of what they claimed happened in the workplace. None of that has anything to do with either the previous Brereton legislation or the legislation before that, which, if I remember correctly, Senator Cook brought into this place in about 1991. We had a series of these examples which were given for no other reason than to mislead and deceive about where Australia is at today with its industrial relations policy.

It is spelt out very clearly in this bill that the award system will underpin every form of working relationship. They are all in this bill, whether it be certified agreements, workplace agreements, casual work, piecework—the lot. I will not read them out in detail here, but I suggest to people who are listening to this debate or to anybody who wishes to inform themselves that they refer to page 25, which deals with awards; pages 75, 154 and 155,

which deal with the minimum conditions which apply to workplace agreements and certified agreements; and to page 160, which deals with casual workers, part-time workers, et cetera. The legislation spells out very clearly and precisely how everything will be underpinned by the relevant award.

The next point that I wish to come to is very important and has been a very clear policy position on this side of the chamber for a long time. It is also part of one of the international conventions to which we are a signatory. It is freedom of association: voluntary unionism, the right to belong or not to belong. This legislation will bring to an end the closed shop mentality, which has been one of the things that have bedevilled many workplaces in this country, particularly in some of our major capital cities, over the last 10, 15, 20 years. I make the point, in dealing with this particular aspect, that certified agreements will continue, underpinned, as I have said already, by the award conditions which exist in this legislation.

My next point deals with the bringing back of sections 45D and 45E of the Trade Practices Act. This is about protecting innocent parties, who should not have to suffer.

One of the real weaknesses of the Brereton legislation was the removal of sections 45D and 45E. As we found in the Weipa dispute, it allowed innocent people to be victimised. Their jobs were hurt, the profits of the companies were hurt and the economic performance of Australia was hurt. There should not be a situation, in my view and in the view of those of us on this side of the chamber, where innocent parties suffer because of disputes between other people.

The next point I raise is the unfair dismissal law. If there is one thing that has been an impediment to employment, it is that. That is the worst feature—even worse than the removal of 45D and 45E—of the Brereton legislation of 1993. Last week in Perth I was told that the going rate in reference to the prescriptive court processes which exist to dismiss someone is $5,000 per job. Employers, particularly in the mining industry, found that it was far quicker, easier, cheaper and less disruptive to pay someone $5,000 and let them go on their way.

I want to spend a little time on workplace agreements. It is unbelievable that it has taken until 1996 for a piece of legislation that will actually allow employers and employees to negotiate their own agreements, their own position in the workplace, and allow them the freedom of choice to do that without the mandatory intervention of a third party. But if either party wants to get somebody to negotiate for them or represent them, they may do so. It can be the union of their choice. It can be the local doctor. It can be a local dignitary. For the employer it can be the employer association, or some individual. It can be the accountant.

That is an important aspect. It will lead to much more flexibility, underpinned, as I have already said—on page 155 of the bill—by a range of matters which cannot be ignored. They are very important for the security of people in the workplace. I will touch on these while we are here, and emphasise some points. Employees will be entitled to:

. ***wages*** **over a period no less than the wages that would have been earned over the period under the award-**

I underline 'under the award.' What we heard about people being forced to work for less than the award is just not true. Then:

. **no less than *4 weeks of recreational leave* with pay each year-**

. **no less than *12 days of personal/carer's leave* with pay each year if the employer is sick, is caring for a family or household member or is absent because of the death of such a member-**

. **no less than *52 weeks of parental leave* or *adoption leave*—**

Take note of that. The bill then deals with long service leave, equal pay for equal work, et cetera.

One of the things in the medium and longer term that will lead to a much happier workplace, a much more productive workplace, which will address some major concerns which exist in many families around this country and with many individuals, is that this bill will address the problem of unemployment. The more freedom, the more flexibility you have, the more profitability you have, the

greater you can lift your productivity, the greater the opportunity there is for employment.

This legislation, over the medium and longer term, will have some chance of addressing the disastrous unemployment situation that this country has experienced for the last decade or so—a situation which none of us in this place, or anywhere else, should be proud of.

Schedule 1 deals with the principal object of the proposed Workplace Relations Act. It contains some very important aspects. I heard an earlier speaker making some reference to the object of the act. There are a number of aspects which I believe will improve the environment in the workplace. I cannot read them all out, but I shall touch on some briefly. The bill states that the act will provide a framework for cooperative workplace relations by:

(b) ensuring that the primary responsibility for determining matters affecting the relationship between employers and employees rests with the employer and employees at the workplace or enterprise level; and

. . . . . .

(i) for wages and conditions of employment to be determined as far as possible by the agreement of the employers and employees at the workplace or enterprise level, upon a foundation of minimum standards; and

(ii) to ensure that there is an effective award safety net of fair minimum wages and conditions of employment;

. . . . . .

. . . supports fair and effective agreement-making and ensures that they abide by awards and agreements applying to them;

Then, and I think this is very important in terms of the object of the act:

(i) assisting employees to balance their work and family responsibilities effectively through the development of mutually beneficial work practices with employers;

I have only touched on a few aspects of this legislation, but I commend them to people because I believe they are a fair progression of what is required in a modern workplace in a country such as Australia, which is becoming more and more skilled in its workplace. It requires in that skill more and more flexibility and less of the draconian attitude which has existed, unfortunately, in the past.

I would like to touch on the role of the Employment Advocate, which is a new concept in industrial relations in this country. The Employment Advocate will be responsible for representing employers or employees. The commission will have a much more focused role than it has had in the past in terms of setting minimum standards and looking at a range of matters, which we have not time here to address.

Finally, in the time I have available, I want to mention the conclusion of government senators in the report. Having listened to all the evidence presented orally at public hearings and read all the submissions, contrary to what has been said on the other side of the chamber, we recognised and accepted that there is anxiety in the community over the proposed changes in this bill.

At the outset we must state that much of this anxiety is because neither the union movement nor opposition Labor senators were prepared to accurately present the facts of the bill in their arguments. I have already touched on the misrepresentation and the misleading information that was continually presented to the committee. That is why in the report of the government senators we have spent so much of our time pointing out that the anxieties of this bill are fictional not factual.

A classic example of this are the claims that have been made that those on AWAs on casual rates or piece rates, et cetera, will not be underpinned by the rates of pay in the awards—and I have spent some time addressing this issue. Their rates of pay will be underpinned by what is in the awards which have been established by what our opponents call their own umpire, the Australian Industrial Relations Commission.

However, we do not believe that those reservations and anxieties are anywhere near as strong as those expressed to the Senate committee which examined the 1993 legislation in then Minister Brereton's Industrial Relations Reform Bill 1993. I would commend to people the reading of the submissions that were presented to us at that particular time. Many of the concerns came to

fruition, unfortunately, in what actually transpired.

In the report of the government senators, we have endeavoured to put the other side of the story. Against the opposition's majority report, it is indeed a powerful story. And so it goes on.

I conclude my remarks tonight by stating that the reforms in this bill are modest, as many of the witnesses told us. I think it is worth quoting Mr Winley from the BCA—and you would hardly call either Mr Winley or the BCA an outrageous cowboy organisation. Mr Winley said, 'It's about decentralisation, not deregulation.' By that, he means that significant protection will still exist to protect people in the workplace as far as their positions are concerned but that this legislation will open it up to more flexibility allowing people, as I have already mentioned, to deal with their own particular requirements in their own ways, subject to those minimum standards.

The final comment I would make is that, far from being embarrassed, the government senators who have contributed to that report are completely satisfied with what they have brought down. We believe that this particular piece of legislation will advance the cause of Australia's economic development, tackling unemployment and dealing with the economic situation we have in a very strong and positive way.

**Senator CHILDS** (New South Wales) (8.10 p.m.)—We are discussing the Workplace Relations and Other Legislation Amendment Bill 1996 and Senator Crane in his speech has been referring to a report of the Senate Economics References Committee. Like Senator Crane, I too was a member of that committee and also will refer to that report.

Since 1904 Australia has had a federal industrial relations system. It is based on balancing competing interests, in order to achieve fair and equitable outcomes between employers and employees. The Workplace Relations and Other Legislation Amendment Bill 1996 is not about balancing competing interests; it is about stacking the deck in favour of employers.

Our system of conciliation and arbitration has recognised the collective representation of employees through registered organisations, being trade unions, and of course the collective representation of employers by employer organisations. A fundamental tenet of the system has been a recognition of the imbalance in bargaining power between an employer and an individual employee.

The majority of the Senate Economics References Committee has concluded that, generally, the employment relationship is characterised by a bargaining power imbalance, employers having stronger bargaining powers than employees—and that is commonsense that can be understood by every ordinary Australian. The majority of the committee is concerned that the bill makes changes which undermine the capacity of the industrial relations system and its institutions to redress the imbalance and ensure that employers do not take unfair advantage of that imbalance. This concern influences many of the specific recommendations which appear in the committee's report which I am associated with.

The current industrial relations system recognises the realities of life in Australian workplaces and has delivered unprecedented levels of workplace peace. I declare my interest. I am a trade unionist. I have been a trade union secretary. I will die a trade unionist, just as you probably will, Mr Acting Deputy President McKiernan. I challenge the government senators to declare their interest too, because this is a partisan issue. Unions have played a vital role in representing the interests of Australian workers, and yet the government wishes to force unions out of the bargaining process—and therefore its members show their bias.

The legislation prevents unions playing an active role in the review of certified agreements or Australian workplace agreements. The Labor members of the committee therefore recommend that the bill's provisions concerning the review process for both certified agreements and Australian workplace agreements should be amended to include a right for unions to intervene whenever necessary to ensure that all relevant facts and issues

will be disclosed; that the interests of all persons potentially affected by the matter will be protected; or that the interests of the union itself are not affected, before the union has had an opportunity to be heard.

The legislation which is currently in force gives the Australian Industrial Relations Commission a pivotal role. The government has framed the Workplace Relations and Other Legislation Amendment Bill 1996 to undermine the role of the commission. The current industrial relations system, in my view, has received recognition and respect and, most importantly, is acknowledged as achieving important social and economic goals. The Workplace Relations and Other Legislation Amendment Bill 1996 seeks to displace the fundamental principles upon which the current system is based. Yet the majority of the economics committee could find no convincing evidence to suggest that the proposed changes would benefit the economy or provide a basis for a better economic performance than that which has been achieved under the existing legislation.

We have just heard Senator Crane refer to employment. This is the contradiction that this government has created. It promises that this legislation will increase employment—presumably, by lowering wages generally—and yet each week between now and Christmas, we will see increasing unemployment because the cuts that were made under the proposals of the previous government in Working Nation will mean that more and more people are going to be out of work. We will see 5,000 to 10,000 people a month becoming unemployed. So that is the contradiction existing between this government's rhetoric and its practical achievements.

The majority of the committee also notes that the existing system has provided reasonable and appropriate protection for the living standards of working Australians whilst not inappropriately hindering economic performance. The majority therefore concluded that the mixed regulation and flexibility in our current system strikes a balance between necessary flexibility and desirable fairness which, although not perfect, appears more appropriate than moving to a much more deregulated labour market that this legislation will achieve.

If passed in is present form, the legislation would effectively destroy the Australian Industrial Relations Commission. It would hollow out the award system until it collapsed. It would attack workers' rights to collective action. The consequences for Australia will be serious. The consequences for the most vulnerable members of our work force will be disastrous.

As I said earlier, the workplace relations bill attacks the role and functions of the Australian Industrial Relations Commission. The commission has been the means of addressing the inequality of bargaining power between employers and individual employees. It has been the independent umpire.

This bill makes 36 attacks on the role of the commission. Three major examples of these attacks are: firstly, a restriction of the commission's power to prevent or settle an industrial dispute to 18 prescribed matters. The commission's power to make awards dealing with these prescribed matters would be limited to setting minimums only. These minimums would not include conditions that Australian workers should be able to rely on.

The Labor members of the economics committee have concluded that the proposals to confine allowable award matters to 18 matters will preclude the commission from speedily and adequately settling industrial disputes regardless of their subject matter. We believe this will involve considerable detriment to the community as a whole and to the specific parties to an industrial dispute.

We have concluded that the proposals to reduce awards to 18 allowable matters is fundamentally flawed. We are concerned that this proposal would place many existing entitlements outside awards and thus ensure that, without renegotiation, the conditions of employees will be unequivocally reduced. We believe this will ensure another breach of the Prime Minister's rock solid guarantee and every day we see another breach of his guarantees.

We also found that this process of so-called award simplification is arbitrary and deficient,

particularly because the legislature purports to declare that the matters outside the 18 allowable matters are in some way less important or less worthy of award protection than those matters in the enumerated list. The Labor members of the committee therefore recommend that proposed section 89A should not be enacted.

The second major issue is that the commission will have no power to make paid rates awards. The abolition of paid rates awards will result over time in substantial real wage reductions for people in essential services like teachers, nurses, academics, community workers, oil and airline industry employees, public servants and emergency service workers. About 1.7 million Australian workers, or 25 per cent of the Australian work force, are on paid rates awards at this moment and they will be affected.

Paid rates awards are vital to a happy Public Service and an efficient Public Service. If you were to go round this city today you would find that the effect of this government just in this one city is to destroy morale in the Public Service. The threat of abolishing paid rates awards that is posed by this legislation means that every public servant is going to be demoralised.

The majority of the committee has concluded that the proposal to abolish paid rates awards fails to appreciate the many benefits that are afforded to employees as a result of paid rates coverage. Paid rates awards ensure that wages are relevant, consistent and secure, that they are enforceable and will be adjusted over time. Where bargaining occurs over and above the paid rates award, the award also provides a comprehensive benchmark for negotiations. The majority of the committee is concerned that the removal of paid rates awards will leave employees worse off—again contrary to the Prime Minister's rock solid guarantee. The majority of the committee therefore recommends that the commission should continue to have the power to make and administer paid rates awards consistent with the existing provisions.

What this government proposes is that each paid rates award will be converted to a minimum rate plus a frozen dollar amount equal to the difference between the minimum and the previous paid rate. This means a substantial component of the wage will be frozen in time never to be readjusted. This could be up to 25 per cent of the workers' pay and conditions.

A third significant example of the attack on the role of the commission is the loss of the power to review enterprise or workplace agreements. Agreements will be secret and lodged with the office of the employment advocate. They will not be examined unless a signatory to the agreement complains. The employment advocate will not release them to any person who is not party to the Australian workplace agreement. The advocate is even prevented or prohibited from informing a non-party to the Australian workplace agreement that a person is or is not a party to an AWA.

Unions cannot inspect an AWA pursuant to the right of entry provisions. That provision in the existing legislation is vital to make sure that if people are being underpaid as far as an award wage is concerned the trade union can come into that enterprise to inspect the books and for the employee not to be victimised. Under the government's legislation, as an aside, people are going to be victimised because they will have to ask the trade union to come into any enterprise.

We also find that academics cannot gain access to the information for the purposes of the research. That is just another example of the sneaky style of this government. Academics or people who wish to study a tenancy or development in any particular industry will have no access to the information because this is a sneaky proposal. It is a sly proposal. It is hidden away from people because we know and the government knows it is designed to reduce wages and they want to disguise that.

The committee, as it went around Australia, was given many examples from the Liberal states' state legislation of where people have been disadvantaged. We have had that evidence before us. The Liberal-National coalition government realises that it is embarrassing; therefore, they will attempt in their legislation to prevent people understanding what is going on with their workplace agreements.

Pursuant to proposed section 83BS, there are penalties of up to six months gaol for disclosing details of AWAs. We had countless examples from the various states of unfair contracts under similar existing state law of Liberal-National party state governments. The majority of the economics committee has concluded that there is an overwhelming case for independent review of AWAs before they come into force. This is the only effective way to ensure that employees, particularly the more vulnerable, have genuinely made the agreement free from any coercion and have been provided with the requisite minimum terms and conditions.

The majority of the committee has also concluded that, although there are other alternatives available, the Australian Industrial Relations Commission is best suited to this task. The commission has the knowledge and the expertise to be able to properly test whether the AWA was genuinely made by the employee and does include the minimum terms and conditions.

The majority of the committee also notes that the bill already provides a reviewing role for the commission in the case of certified agreements. The majority believes that, given that the same test will be applied for certified agreements and Australian workplace agreements, the same body should be given the task of applying that test. This is commonsense. It is a sensible way of using resources, yet this government will not do it. This government proposes to separate the functions. The majority of the committee therefore recommends that this bill should be amended to provide for pre-agreement review of AWAs by the commission.

The government's contradictory position is shown up in cuts of up to 16 per cent to the commission and the Australian Industrial Registrar. At a time when the government are proposing legislation that will qualitatively change everything, they are denying resources to the Industrial Relations Commission. It is just like their claim on employment. It is phoney and it is contradictory. I think when people think about it they will see how genuinely contradictory this government's policies are in industrial relations.

The majority of the committee has concluded that the proposal to abolish the bargaining division of the commission is counterproductive. The bill places greater emphasis on agreement making and therefore increases the need for supervision by the commission. The majority of the committee believes this suggests a greater need for a discrete division of the commission to deal with bargaining matters and not a lesser need, as implied by the bill. The majority of the committee therefore recommends that the bargaining division of the commission be retained.

Attacks on the commission will undermine collective bargaining, promote secrecy at the expense of independent scrutiny, and place a range of restrictions on the proper role of trade unions and their members. The Prime Minister's pre-election rock solid guarantee was that no worker would be worse off under this legislation. Senator Crane talked about the objects of the bill. I challenge him and the government, if they are fair dinkum, to put into the objects that rock solid guarantee: no worker will be worse off. Why not put it into the objects and let us test out the legislation, if it is to be carried? Of course, the government will not do that because the Prime Minister has diluted so much in the manifestation of this legislation. He has promised that no worker will be worse off.

The attacks on the commission will inevitably lead to workers being disadvantaged, as will the hollowing out of the award system. I call it the hollowing out of the award system because Mr Reith and Mr Howard said before the election, 'Workers who are currently on awards can choose to remain on them.' That is what he said. Mr Howard said last year in Western Australia:

> You give people a choice between an award and a workplace agreement. They can opt out of an award into a workplace agreement. They will not be forced out.

That is what he said in Western Australia, reported on 29 July 1995. This economics committee heard evidence that under state agreements people have been forced out and federal AWAs will achieve the same purpose. They were forced out under the Liberals' state

legislation and the same principles are being applied in this bill.

Employees have been pressured directly. They have been offered jobs only on condition that they sign the contract. The majority of the committee has concluded that the proposal to permit employees to enter into AWAs before employment creates the potential for AWAs to be offered on a take it or leave it basis. The majority of the committee is very concerned that this will permit pressure to be applied to vulnerable employees seeking work to accept lower wages and conditions. Who are we talking about here? Primarily young people and women—people not experienced in bargaining and all the other issues involved. They are going to be the people who will be offered employment on a take it or leave it basis. The majority of the committee therefore recommends that this proposal, proposed subsection 170VK(2), not be implemented. The majority of the committee also recommends there should be further consideration of a prohibition on offering an AWA as a condition of employment.

The evidence the committee heard in Western Australia was very interesting. In 1992 John Howard reportedly said he would see throughout Australia an industrial relations system that is largely similar to what the coalition state government has implemented in Western Australia. Some of the worst examples of exploitation were from Western Australia. I think that says a great deal about what this legislation is about. We have seen it in your state, Mr Acting Deputy President McKiernan, and it is very unsatisfactory.

**Senator BOURNE** (New South Wales) (8.30 p.m.)—I wanted to talk tonight about an aspect of this Workplace Relations and Other Legislation Amendment Bill that we should all be considering when we look at every single clause in this bill—that is, how every one of those clauses relates to our international obligations. Australia does have a proud record of participation in international organisations such as the UN and the ILO. In fact, we were a foundation member of the International Labour Organisation nearly 80 years ago. We have made a contribution to the workings of the ILO that is well in excess of our size as an economic power, with at least one Australian on the executive board of the ILO for most of that period. We are signatories to most ILO conventions.

Australia has developed a strong reputation as a defender of human rights and labour rights throughout the world. But people in glass houses should not throw stones. An essential element of our ability to raise questions about human rights in other countries—whether that is child labour in China, sweatshops in Thailand or the gaoling of union activists in Indonesia or Guatemala—is credibility. Credibility comes from practising what we preach. On the human rights of workers, that means abiding by what are internationally accepted standards at home here in Australia.

Industrial law is all about human rights. It is about the right to organise, the right to representation, the right to political and industrial expression, the right to employment on reasonable terms and the right to a safe working environment. These rights are enshrined not just in ILO conventions but in the Universal Declaration of Human Rights and in the UN International Covenant on Economic, Social and Cultural Rights. Those are two of the absolute basic documents that the world has on human rights. These rights are immensely important. If we reduce them, if we tinker with them, if we ignore them or if we destroy them, then our international credibility will be damaged, at the very least.

The Democrats are concerned about the link between this bill and Australia's international obligations. We were quite concerned when, in the course of the debate on these changes to IR law, the International Centre for Trade Union Rights presented the report of an expert panel, which concluded that the bill breached our international obligations in a range of respects. That expert panel included Professor Breen Creighton of La Trobe University; Professor Keith Ewing of London University; Mr John Hendy QC, a leading English employment lawyer; and Mr Michael Walton and Mr Mordy Bromberg, both senior Australian barristers.

The panel, in a 100-page report, concluded that the bill breached our international obliga-

tions in a number of serious respects. I do not propose to deal with those in great detail, but I will list the key ones. The centre argues that this bill fails to promote collective bargaining, with individual bargaining given a privileged place over collective bargaining. It places excessive restrictions on the rights of workers to form, to join, to participate in and to be represented by trade unions. In particular, the bill severely limits the ability of unions to enter, to inspect and to recruit in workplaces.

It seeks to reinstate access to common law and trade practices penalties for legitimate industrial action. It fails to ensure that all workers in Australia, especially at the moment those in Victoria, have access to a decent unfair dismissals regime. It repeals the jurisdiction of the AIRC to deal with issues relating to equal remuneration for work of equal value—surely that is absolutely basic. It fails to provide for a sufficient level of protection for workers in particularly disadvantaged positions when they are in the middle of the bargaining process.

In short, this bill fails to fulfil our international obligations and it would leave Australia open to international condemnation. That condemnation is already starting to occur. In August, the Australian Embassy in South Africa was picketed by South African workers who were concerned that, if a so-called civilised country like Australia regresses to 19th century master-servant style law, what hope is there for a newly democratic country like South Africa?

The Democrats have received letters from unions and worker organisations in Argentina, Fiji, the Caribbean, Japan, Luxembourg, Spain, Malaysia, Nepal, Cyprus, France, the Czech Republic, the United States, Ghana and Ireland. Marc Blondel, General Secretary of the French General Labour Confederation, said:

> The introduction of this legislation would undermine good industrial relations practice, itself a key factor in sustained economic growth, as well as fair employment standards. This can only undermine social and economic stability.

We—

the French General Labour Confederation—

> find the proposals all the more disturbing because Australia has been, particularly in recent years, a leading example internationally of how a stable and innovative industrial relations policy can promote economic and social progress. The proposal can only damage Australia's international standing as an upholder of human rights.

The Democrats are concerned about these sorts of statements. As Senator Kernot has already said in this debate, we believe that the bill as it stands fails to provide a fair balance between the rights of employees and their unions and the rights of employers. It fails to recognise that employers bring to the negotiating table a massive advantage over their employees in all but very few limited industrial situations. In its present form this bill is unsupportable.

If Australia is to be a respected player in international human rights forums, we have to practise what we preach. It would be outrageous to sign a convention with fanfare and champagne and then fail to implement it. It is not as simple as dropping that object of the Industrial Relations Act which says, 'The act provides the means for ensuring that labour standards meet Australia's international obligations.' In the eyes of the world we are bound to uphold those standards that we undertake to uphold, and so we should be.

It is worth noting that the High Court only last month said that the object of the bill in relation to international obligations was of particular importance in upholding the validity of equal remuneration for equal work, the promotion of workers with family responsibilities, and the termination of employment provisions of this act.

It is also certainly worth noting that many human rights and labour activists believe that this bill fails to meet the grade of international best practice. That is a very sad indictment on us as a nation. The Democrats in reviewing this bill will seek to ensure that we establish legislation that provides a real blending of our international obligations and our domestic policy. *(Quorum formed)*

**Senator LUNDY** (Australian Capital Territory) (8.39 p.m.)—I rise in support of Labor amendments to the Workplace Relations and Other Legislation Amendment Bill. I want to make the point that I oppose this

bill but, in the knowledge of its eventual passage through this chamber, the 335-plus amendments moved by Labor will remove the more abhorrent clauses designed by the Liberals to remove the ability of working people to stand up for themselves. I have chosen to confine my contributions to this debate to three specific amendments. The decision to do this was a difficult one, given that there are many issues of principle that are worthy of addressing specifically.

My experience as a labourer from the age of 16 taught me much about dignity and fairness in the workplace. It taught me, as a young wage earner, that both were very difficult to come by in the workplace. It is with this experience behind me that I come to this debate. It is with this experience and 10 years subsequent experience in the building and construction industry that I come to this debate as a voice for workers in the private sector. Also, having been president of the peak union body in the ACT for three years prior to coming to this place and having been on the executive for five years prior to that, I think I can speak with authority on behalf of working men and women, particularly here in the ACT.

I can see quite clearly the damage that will be inflicted upon our collective psyche—a psyche of a nation whose constitution embodied the need for and provided the mechanism to allow working people their dignity in their endeavours and their labour. It is this collective psyche of Australians that I think holds dear to it the notion of a fair go, of sticking together and of respect for those who contribute their labour in return for a wage. It is this contribution and its nature that goes to the heart of the powerful work ethic that I believe unites our work force. I ask this: how often is it that their commitment, dedication and loyalty are quantified in the employer-employee relationship? I say not often enough and certainly not within the confines of the workplace relations bill.

This government instead uses trite references to individual choice to draw empathy from working women and men who do take pride in their contributions. Individual choice spoken with the forked tongue of John Howard is another way of saying 'isolation'. Isolation inevitably leads to exploitation. This bill removes the means by which working men and women can protect their interests. It is with the greatest irony that, at a time when people most need a sound and fair system that will ensure them a living wage in the face of stiff global competition, we find ourselves debating in this chamber the basis of that fair system.

But this is Howard's way. His way is to disregard the reality of industrial inequities that do exist. Howard's way is not driven by commonsense but by an ideology which, by its nature, sets out to exploit working people.

Senator Kernot in her speech earlier this evening mentioned 'ideological baggage' that she says both major parties carry in industrial relations. In seeking to captivate the middle ground in a debate that has always distinguished Labor from Liberal in this country, Senator Kernot has hit upon a crucial factor. Yes, when it comes down to it, Labor represents working people and the Liberal Party represents the big end of town. The only difference is that these days the definition of working people extends far beyond what it has in the past.

My colleagues who spoke before me this evening have mentioned many of the issues that emerge from this bill. As I said, despite the urge to cover as many bases as possible, I have decided to focus my contribution on the impact of this amendment bill upon a group of working people known as independent contractors. Some call them small business operators, but in this bill they are grouped as independent contractors.

We have all heard of John Howard's commitment that no worker will be worse off under this legislation, but also we have heard from Senator Sherry that government representatives themselves have admitted—under close questioning as part of the workplace relations bill inquiry—that yes, wages and conditions are at risk.

I want to demonstrate that this commitment has not been honoured in the circumstance of independent contractors and that, to ensure that this group of working people retain their dignity, a series of specific amendments to the

workplace relations bill and to the Trade Practices Act must be supported.

I want to address it from three different perspectives. First of all, I wish to address abuse of the definition of 'independent contractor' that occurs in the industry when unscrupulous employers are intent upon reducing their liabilities. Secondly, in the case of genuine independent contractors, an anomaly exists which excludes them from being able to legally collectively bargain. Thirdly, there is the issue of independent contractors being specifically excluded from access to the Industrial Relations Commission for scrutiny of contracts and there is the issue of their capacity to bring proceedings before the commission for the recovery of wages.

Firstly, I want to look at the abuse of the definition of independent contractor. The amendments I refer to are with respect to the definitions of employee and independent contractor, which must be consistent between the acts. To this end, a definition of contract of service needs to be inserted in section 4(1) of the Trade Practices Act to be consistent with the definition used elsewhere, for example, in section 12 of the Superannuation Guarantee (Administration) Act.

The definition of independent contractors in the context of entitlements has been an issue of ongoing debate within industry, and the report of the committee inquiry into the workplace relations bill acknowledges the increasing trend towards the use of quasi-independent contractors.

An example of the need to provide an adequate enforceable definition can be summed up in the case of an employer in the ACT who took to finding workers and contractors to a degree that, I think, even the driest Liberal minister would wince at. The employer employed a number of trades people and some young people. The trades people were employed at an all-in rate of $14 per hour before tax. That meant that they did not get any overtime, they did not get any other award entitlements and they were working on a PPS, prescribed payment system, of tax. The employer in that case stated that no penalty rates were provided and that he was the one who determined the pay, at the rate that he saw fit.

When this particular workplace was examined at the time by the union involved, a question was asked about how much a young person with a disability was being paid. The answer was $4 an hour. That person was employed for $4 an hour on the basis of—this is the response that the employer gave to the organiser of the union—'Who else is going to give this young person a job? That is all I am prepared to pay him.' The employer did not even know the extent of this young person's disability. He employed them on the basis that no-one else was going to give them a job, and that that gave him the right as an employer to pay what he considered an appropriate rate.

The same employer was asked questions about employing other young people on the weekends. His reply was that, yes, he employed other people on the weekends, and he employed them on the basis of $4 an hour; he did so because he had that right and no-one would employ them elsewhere. PPS was used by this employer in this situation to determine a rate of pay as he saw fit. There was no reflection of the award rate of pay, and there was no recourse for those young people involved—until the union was able to introduce them to the award and explain their entitlements.

It is interesting to note at this point that, at the same time as attempting to remove such recourse by contractors to the Industrial Relations Commission, the Treasurer (Mr Costello) in Budget Paper No. 1 made some quite obscure references to the PAYE tax system. Under the previous government, with respect to this tax system, it was acknowledged by Treasurer Willis that there had to be some recouping of the massive exodus from PAYE into what was then a burgeoning cash economy. That statement was made on the basis of statistics. There has been a 35 per cent increase in PPS taxation in the last eight years. Yet, at the same time, PAYE taxpayers bear the burden of 88.2 per cent of total tax revenue from individuals, which has risen from 84 per cent 10 years ago.

At the same time in this workplace relations legislation this government is removing the

provisions and protections for independent contractors and allowing the definition of independent contractors to be exploited. A mechanism in the budget further extrapolates the incentives for employers to engage people on the PPS system in the face of evidence that the trend to PPS from PAYE is detrimental to our revenue base.

It is not surprising that employer organisations lobbied Costello hard on this issue when, as I mentioned before, PPS allows employers to avoid payroll tax and award health and safety and workers compensation obligations. This move clearly signals an intent on the part of this government to allow independent contractors or self-employed people to propel the industry into an area that will remove even any semblance of protection for such workers, even any protection they may have had if the workplace relations bill had gone unamended through this chamber.

Secondly, as I mentioned, an anomaly exists that excludes genuine independent contractors from being able to legally collectively bargain. Some of the amendments that I referred to in my first point will also assist in removing existing ambiguity and resolving some discrimination in this area.

Current section 195(1)(a) of the workplace relations legislation also impacts upon this situation. In the context of the increases I have just described with respect to contractors and numbers of contractors, the unions have over the years represented the interests of these contractors. In some sections of the building industry specific groups or trades have worked as independent contractors in a bona fide way. Ceramic floor and wall tilers are one example, and, more recently, roof tilers have worked in this way—may I add, under pressure from their sector employers.

As a result, collective bargaining agreements have been negotiated with employer groups to ensure that these workers do attract a living wage—and this has gone without challenge until very recently when, for opportunistic reasons, some employers have argued that this type of collective bargaining is in some way illegitimate or in breach of competition policy. I believe that this represents a contradiction of the coalition's repeated statements regarding freedom of association and flies in the face of the ability of workers to be able to join together and collectively negotiate an outcome.

The third point I would like to address is that independent contractors are specifically being excluded from access to the Industrial Relations Commission for scrutiny of contracts in their capacity to bring proceedings for the recovery of wages. One of our amendments deletes the repeal proposed in the Workplace Relations and Other Legislation Amendment Bill 1996 and it covers sections 127A, 127B and 127C, 45(1)(ea) and (eb) and also sections 178(9) and 179(3). These sections provide for scrutiny and recourse through the Industrial Relations Commission for independent contractors.

I would like to go through another example of a young worker in the ACT. By virtue of the attempts by his employer to make him an independent contractor, this young man may not have the security or the protection of the commission in seeking his entitlements if the government's changes go through. The situation was this: a young man, 17 years old, was offered a job with the view of an apprenticeship. He was paid $7 an hour for doing some labouring work, which is far below the award. The award rate is, in fact, $11.54 per hour for labour. This person was paid no public holidays, no annual leave, no sick leave, no super and no long service. When it rained he was sent home with no pay. During the course of his work he laid pavers, cleaned gutters, painted and did carpentry work. He did all sorts of work.

His employer came to him and asked him to sign a paper stating he was a contractor. The paper was presented to this young person after he asked what was happening with his apprenticeship. The response by his employer was, 'Just sign the paper.' Fortunately this young lad had the sense to make some inquiries. When his mother contacted the industry association she was told that he was probably better off taking what the employer had to offer until something better came up. Fortunately for this young person they then got in touch with the Industrial Relations Commission, which advised them to contact the

union. The union then attempted to recover the award wages which this young person was entitled to.

I think that example clearly demonstrates that, when we are talking about independent contractors and their recourse, this is what is happening now. The examples I have provided to you this evening show that this is what we have got under the current system. There needs to be more protection under the current system. The series of amendments I have outlined will go a long way towards improving the definitions of independent contractors and their status within industry. I do not think that the system provided for under this workplace relations bill—in a whole lot of areas, but specifically with respect to independent contracts—is the type of system that this country needs or the type of system that workers or independent contractors themselves want.

The issues confronting independent contractors are many and varied. Unless the amendments that I have specifically outlined—all of which are addressed in the workplace relations inquiry report—are dealt with, there will be increasing and ongoing cases of exploitation, discrimination and exclusion from recourse for these people. Exploitation by unscrupulous employers and developers who force workers to become independent contractors for the purpose of reducing their own liabilities—whether it be insurance, superannuation, penalty rates or award rates—needs to be specifically addressed.

It is an issue which is acknowledged by and large by all sides of industry: not just by the unions or the workers themselves, but by employers genuinely seeking to pursue a fair and equal playing field. These amendments will end the discrimination against a group of workers who are currently denied the ability to collectively establish a minimum set of rates by virtue of a technical definition in the Trade Practices Act. I have mentioned that amendment previously. That amendment will assist in resolving that situation and it needs to be done to overcome that anomaly.

It really goes without saying that exclusion from recourse to the Industrial Relations Commission for unfair contracts, et cetera as proposed in the workplace relations bill removes the right that these people have to this particular recourse. The alternative in the Federal Court is a very expensive, time consuming, impractical and virtually unworkable solution, so basically there will be no genuine recourse for independent contractors who are in the situation of being ripped off.

These amendments will remove much of that ambiguity. These amendments will provide a clear legislative definition and consistency between the Workplace Relations Act and the Trade Practices Act. For the growing number of people in our society who, by virtue of the nature of their work and their contribution, are called independent contractors and for those who are self-employed—or who are, in some cases, small business operators—we have a responsibility to resolve these anomalies. The problems and the issues that I have described will identify these anomalies. Support for these amendments will serve the purpose of resolving this issue—hopefully once and for all.

**Senator FORSHAW** (New South Wales) (8.59 p.m.)—The Workplace Relations and Other Legislation Amendment Bill 1996 is a draconian piece of legislation. This government has said that it regards this legislation as the hallmark of its period of government since its election in March this year. If this is its showpiece, then the people and the workers of Australia have much to be worried about, because this legislation attacks the very core of a system of regulation of wages and working conditions and the settlement of industrial disputes that has underpinned our great democratic society for almost 100 years.

I would like to congratulate Senator Kerry O'Brien on his first speech today because it was truly a great speech. In his speech, Senator O'Brien—quite appropriately, given the bill that we are now debating—reminded us of the importance of free, independent trade unionism to democratic societies. Free and independent trade unions have always been an integral part of Australian society. They are fundamental to the maintenance of any peaceful society which holds itself out to provide equity and protection for all people. That is, of course, what we have enjoyed in

Australia for so long and it is the envy of many nations and many millions of people around the world. It is one of the things that sets our country apart from the situation that faces workers and people in many other nations.

It has been my great fortune to have recently visited Poland as part of a delegation representing this parliament. I would like to remind honourable senators opposite, and members of the government in the other chamber, that democracy has only recently come to Poland and to other countries in central and eastern Europe. It did not come because of any great move towards the market, it did not come because of the supposed benefits of capitalism and it did not come because of the cult of individualism, something that members of this government are obsessed with. It came because of the courageous actions of workers in the Solidarity movement, individual workers banding together in a collective to fight for their freedom and democratic rights. It was a trade union movement that started that process off. I ask people to think about that when, out of some blind ideological obsession with the market, they stand up in this parliament and attack so viciously the Australian trade union movement.

Why does the government really want this legislation? Faced with a situation where the economy is improving, where fundamental structural reform and change have been achieved in recent years, where we have one of the highest standards of living in the world and where we have had the lowest levels of industrial disputation in living memory, this government sets out to undermine, to pull to pieces, the system of industrial award regulation and industrial bargaining that underpins that achievement.

It is my belief that this government wants this legislation because it is obsessed with trade unions and with the idea that the market and individualism are to be preferred to the benefits of the collective approach and to the freedoms and democratic institutions that we have had with the Industrial Relations Commission, the trade union movement and organisations of employers for many years.

The government says that its legislation is designed to promote employment and reduce unemployment. But there is simply no evidence that this type of legislation will achieve these objectives. It cannot point to any example other than New Zealand to support its case—and, of course, we know what is happening to the social fabric in New Zealand. But there are many other countries in the world, such as those in the Scandinavian region, that have long had systems of industrial regulation and have also enjoyed low unemployment and low inflation. So on that test there is little, if any, evidence to suggest that such a fundamental restructuring—or, I should say, destruction—of our award system will produce any improvement in employment.

Those opposite then go on to say that they want to get rid of the unfair dismissal laws. We heard Senator Crane talk about this this evening and we have heard a constant chant from government representatives that the unfair dismissal laws are the greatest impediment to employment in this country. What a lot of absolute nonsense! This is nothing more than rhetoric. This is a government that believes that the right to sack a worker is more important than the obligation to treat employees fairly. You never hear a member of the government make a speech about the rights of employees. You never hear them make a speech about how we can improve protection for employees. When they were in opposition, you never heard members of this government say that maybe a national wage increase should be supported, because they did not support them. They opposed every single national wage increase until the last two.

You have never heard senators like Senator Panizza, a senator involved in the rural sector, stand up anywhere and say that the Industrial Relations Commission should grant superannuation to pastoral workers in this country. Senator Panizza knows that his Treasurer (Mr Costello) represented the National Farmers Federation in the Industrial Relations Commission. On behalf of their interests, and essentially on behalf of all the interests represented by the Liberal-National parties

here, he opposed the extension of superannuation to the lowest paid workers in this country. They lost.

Now what do they do? In this legislation they, by legislative decree, remove superannuation as an award entitlement. That is just one example. As I have said, you have never heard the representatives of the government stand up and talk about protection or advancing employees' rights or entitlements.

**Senator Panizza**—Have you ever said anything good about employers?

**Senator FORSHAW**—You only ever hear them stand up and complain about how difficult it is to sack an employee. This is a government that bases its whole approach to industrial relations on removing or reducing provisions.

If you go through the Workplace Relations and Other Legislation Amendment Bill in detail, you find all the way through it provisions which delete entitlements from awards, which remove the entitlements or provisions which relate to registered organisations in terms of the ability they have to ensure adherence to awards. You also find provisions which provide employers with a greater capacity to move employees from federal awards onto lesser standards under state jurisdiction. My fellow senators dealt with some of those issues in specific detail earlier.

I turn to one section of the act—section 89A—which deals with the scope of industrial disputes. This section has been widely discussed as being that provision in the act which reduces the number of matters that can be contained in an industrial award to 18—the so-called allowable matters. For many years, until this legislation, industrial disputes and industrial matters have been defined over time by the High Court and by industrial tribunals of this country.

A whole body of industrial law has built up the precedents to determine what can constitute an industrial dispute, what are industrial matters under the act and what can be regulated by awards for the federal commission. That process has meant that certainty was created in employment relations. If employees and employers could not agree, they could utilise the provisions of the commission to have their industrial disputes settled. Of course, if they were able to agree, they could call upon the commission to regulate their working conditions through consent awards.

That certainty is now to be destroyed. It will not only destroy the certainty of industrial relations but also take away by legislative force many award provisions that employees are now entitled to under awards of the commission. Awards of the commission have the status of laws of this country. Section 89A(2) says that the commission, in dealing with industrial disputes, must confine itself to only 18 allowable matters. We know that there are quite a number of award matters that are not contained in section 89A(2). I would just like to refer to one example because time does not permit me to elaborate on this at this stage but, no doubt, in the committee stage I will.

Some years ago I was a trade union official. I, like Senator Childs and Senator Jacinta Collins, am quite proud to stand up here and say that I have served the trade union movement before. We regard it as something of honour, not as something to be derided, as the government senators seek to do.

Some years ago, we were negotiating some health and safety provisions in the award for the offshore oil drilling rig workers. Working on an offshore oil drilling rig is a very dangerous occupation. Employees are at sea for two continuous weeks, living and working on oil rig platforms whether it be in Bass Strait, the Timor Sea or off the North West Shelf of Australia. Because it is a very dangerous occupation, we were able to negotiate and have inserted into the award a provision whereby the employer would provide, over and above all other entitlements, an insurance policy for the employees. That insurance policy would provide cover for up to an additional $80,000 for any worker who may be unfortunately injured during their employment. As I said, it is a very dangerous industry, one where accidents and injuries are not uncommon.

That provision was particularly important because rig working contractors would come and go in Australia depending on when the

contracts were available. It was important to ensure consistency across the industry. We introduced that provision. Under the provisions of this legislation that sort of clause providing that type of entitlement for those employees both now and in the future cannot exist. It does not come within any of the section 89A allowable matters.

Not only do we have that situation where it cannot exist but what happens under this legislation, by virtue of the provisions of sections 44 and 45, if the employer and the employees or the union do not agree to that clause being removed from the award within 18 months of the operation of this act? It will be automatically removed. What sort of disgraceful legislation is this that will take away from people, whether it be in the area of insurance provision or in the rural sector, as Senator Panizza knows, as does Senator Crane, who spoke earlier and is no longer here? There are quite a range of provisions which relate to the specific unique nature of that industry which will simply disappear from awards because of the operation of section 45 and section 89 of this act.

Nowhere in your policy document—*Better pay for better work*—do we find any statement or reference to the fact that this act would strip back awards by legislation. What we read and what we hear about is a process of simplification and a process of encouraging flexibility. That is a noble objective and that is what was and is happening under the current act through the proper processes of the Industrial Relations Commission. This government's description of simplification and flexibility is to take awards and enact legislation which takes clauses out of those awards if they are not contained within the 18 allowable matters. There are lots of examples other than the one I have given as to the impact of this act.

This is not a process of just simplifying awards. This is a process of destroying award regulation in this country. Notwithstanding the so-called solemn promises that the Prime Minister (Mr Howard) has given about no worker being worse off or no worker losing any take-home pay, there is no doubt that that is what will happen. Those of us who have had the experience of working in the industrial relations system for many years know that that is what will happen and people on the other side know it.

**Senator Panizza**—How much experience have you had as an employer?

**Senator FORSHAW**—Senator Panizza injects. He knows that even in the rural sector, which is one of the most difficult areas for ensuring observance of awards, there have been many instances where current award provisions are not complied with now. Indeed, one of the consultants engaged by the government, Mr Paul Houlihan—that well-known member of the H.R. Nicholls Society, along with Peter Costello and all the other people who are ideologically guiding this legislation—has made it his career to go around saying that he knows where awards are currently not observed. If that is the situation, as it unfortunately exists in some instances, it is logical to assume—because logic dictates it and history dictates it—that once you remove the protections that exist in awards, as this legislation does, it will lead you very quickly to a position where employees will be worse off and will lose take-home pay.

**Senator PATTERSON** (Victoria) (9.19 p.m.)—I am pleased to have the opportunity to speak to the Workplace Relations and Other Legislation Amendment Bill 1996. I find it interesting that Senator Forshaw commented on the fact that we have never talked about the rights of employees. If he goes back and looks at the last speech I gave on this very topic he would find that I mentioned the rights of employees. I would not like to do a head count of the number of jobs and opportunities for employment that people on this side of the Senate have created by risking their capital and their investments versus the number of people on the other side who have used their own resources to create jobs for people. I think you would find that we scored higher. Creating jobs for people is as important as protecting their rights. They are of equal importance. To criticise us on this side of the house, who have spent more of our time creating jobs for people, leaves one side of the equation untouched.

Reform of the industrial relations system is one of the most important promises we made to the Australian people at the last election. Senator Forshaw said that it will not have any effect on unemployment. He should walk down the street with me on a Saturday morning. I walked into an art shop the other day to buy some tubes of paint. The fellow came out from behind the counter and said, 'When are you going to get that industrial relations legislation through so I will be able to employ people?' I went down to the pharmacist. He said, 'When are you going to employ people? I haven't been able to sack a girl who kept taking sick leave after sick leave that has cost me thousands of dollars. I am now employing my sister and my cousins. I am not going to employ people from outside because I can't sack them when they do the wrong thing.' As I walked down the street I found that this would have to be the thing most talked about amongst small business people.

We promised small business that we would give them a system which accommodates their needs and which makes it possible for them to employ people. We promised the resource and service sectors that they would no longer have to contend with an inflexible and outdated employment model fashioned exclusively for the manufacturing sector over a century ago. We promised workers that we would maintain their incomes whilst giving them an opportunity to have a say in developing a more cooperative, productive and competitive workplace. We promised a nation that had suffered all the harsh uncertainties of global participation whilst receiving precious little of its benefits that 'it does not have to be this way'. In other words, we promised Australia that it would no longer have to compete internationally with one hand tied behind its back. With this workplace relations bill we have achieved that.

The purpose of this bill can be explained in one simple proposition: to achieve our aim of shifting the balance of power in a system from unions and their supporting institutions to the people whom the system exists to serve—employees and employers at the enterprise level. This bill is designed to empower employees and employers to make decisions about relationships at work, including wages and conditions, based on their needs and based on an appreciation of their own interests. It explicitly protects the right of workers to organise and be represented collectively and the right of individual employers and employees to strike agreements subject to a safety net.

We have retitled the act to reflect our commitment to fundamental change in the industrial relations system from a system based on an outdated paternalistic notion that conflict is fundamental to labour relations to a system which returns responsibility to employers and employees at the enterprise level.

Senator Forshaw, you might sit there and talk about the Bass Strait. I can tell you many stories about the Bass Strait. I can tell you about how Santa Fe, Pomeroy and Gerwick picked up their choctaw, the barge, about 18 years ago and returned to the North Sea to lay pipes for Norway and Great Britain. They could not make it work here, because some of the union demands were ridiculous, because there was not a coke machine on board, because one group did not have redwing boots. They decided it was impossible. They broke their contract with Esso and went back to the North Sea. Some of the demands were totally unrealistic.

I know that those conditions were harsh because I had a family member working there. I know they were difficult—three weeks out, one week in; three weeks out, one week in. The demands that the union placed on the employers were totally unattainable. One day I will sit down and tell you the story and about how much Australia lost out—13 years of oil that had been explored and discovered that was never ever retrieved because that mobile pipe laying barge went back to the North Sea.

This legislation returns to individuals the fundamental rights of any citizen in a free democracy. It is astonishing to me that we have had an industrial relations system which has explicitly traded away fundamental human rights in favour of securing a power base for organisations dedicated to pursuing goals irrelevant to their members and then forcing

those members to pay for the privilege. No individual should be forced to join an organisation.

That is something that was indelibly etched into my mind when I was 11 years of age. I think I mentioned only recently that my mother was forced to join a union. She came home in tears. You said, Senator Forshaw, that this bill was an attack on our democratic society, that free, independent unions are fundamental to democratic society. Let me tell you that to be free to associate or not to associate with a group of people is also a right in a democratic society. Being forced to join a union does not say anything to me about a free, democratic society.

When that image in my mind was starting to fade, it was re-etched into my mind when I was living in the halls of residence. The woman who used to clean the rooms for the students came to me in tears when there had been a general strike in the university. She said, 'I hope you didn't see me picketing, because I did not want to be there. I went at 5 o'clock in the morning so none of you would see me. I was told that if I did not picket my kids would not get home from school.' Talk to me about a free democratic society. Talk to me about an attack on democratic society. I will tell you the examples that I have seen from the other side of people who have not been free, who have been made to join a union or who have been intimidated to do things that they do not want to do.

So do not sit on the other side and talk about free democratic societies and the rights of employees when I have seen union members forced into doing things they do not want to do, Senator Forshaw. No individual should be forced to part with their hard-earned money to assist in pursuing political aims which are not their own, to be forced into doing things like picketing at 5 o'clock in the morning because they do not want to be seen by the people with whom they work. No organisation should presume to negotiate on behalf of a person who has not given that group its express permission. A system which trades away workers' rights cannot, will not and has not represented workers interests. This bill is not about destroying unions.

**Senator Forshaw**—They don't mind accepting the benefits, do they?

**Senator PATTERSON**—Senator Forshaw, you were listened to in silence. Give me a go.

**Senator Forshaw**—I was not.

**Senator PATTERSON**—Oh! Come on. One or two short interjections—you have not stopped. A system which trades away workers' rights cannot, will not and has not represented workers' interests. This bill is not about destroying unions; it is about restoring the balance between individual rights and collective rights. It is a balance about which I first wish to speak today.

By removing the iniquitous compulsion to join unions or be subject to uninvited unions forcing their way into negotiations, and removing barriers to entry for new unions, this bill will allow a resurgence of true collective bargaining. No-one knows better than employees and employers what will work best for them in their own workplaces. We do not share the line that unions have the monopoly on answers about what is good for workers in particular situations. Anyway, how can they when trade union membership is down to less than 38 per cent of the total work force and down to less than 28 per cent of the private sector work force? That in itself should be giving you a message about what unions are not doing currently for membership.

Labor's systems gave registered organisations, including trade unions, a virtual monopoly over coverage of employees. Monopolies are the single least efficient way of managing anything. They have distorted the process of collective bargaining. They have created a dictatorial reactive union organisation system, and these organisations have operated in comfortable isolation from the concerns of their captive membership—not always, but in many instances.

The ACTU's current living wage claim is a good case in point regarding the shortcomings of the present industrial relations system. Relying on a single study by two American academics—a study reviled by the vast majority of economists—the ACTU's claim has the potential to rob the most economically vulnerable of their jobs. Steven

Kates, who is chief economist of the ACCI, put it fairly succinctly in this mornings's *Australian Financial Review*, when he said:

> The outcomes sought are so distant from what is economically sustainable that the certainty is that inflation and unemployment would both increase substantially.

Further, he said:

> . . . to describe the ACTU claims as designed to protect the lowest paid is clearly nonsensical.

This sort of economic irresponsibility is in part the result of a system which enforced union membership but avoided union responsibility.

The bill seeks to abolish the so-called 'conveniently belong' rule. If the risk of job losses among blue-collar workers resulting from the ACTU's living wage proves anything, it is the principle that a union having a monopoly on representation is iniquitous, and destroys any initiative or any impetus to service the membership.

The bill will also reduce the minimum membership requirements for unions from 100 to 20 members. These measures will help to establish new unions, including enterprise unions. This is just one aspect of our bill which many union members have been quietly applauding.

The process of amalgamations has resulted in unions which are increasingly remote and removed from their members' concerns and interests. It is worth noting that in toto, if you add up how long Martin Ferguson, Jennie George, Bill Kelty, and Tim Pallas have between them working out in the work force and not as union representatives, they have six years work experience outside the trade union movement. That may say something about how, in large organisations, large unions, those people get more and more removed from the actual coalface and the actual issues that are affecting the membership. In those smaller unions, in those enterprise unions, you have the opportunity for people who are there at the coalface to be involved. They also have access, if they need, to other representation.

Under our reforms, unions will lose their position of privilege and monopoly. That is what this is all about. This is why you are bleeding on the other side—because so many of you come from those situations where you have had it good. When there has been a strike, you have not been out and losing your pay. Unions will become more democratic and more member focused and they will be more responsive to the requirements and needs of workers.

There will be greater employee choice about union membership—whether or not to join a union and, rather than sounding the death knell for the union movement, these reforms will allow for innovative and proactive unions to succeed and thrive by listening to their membership and by providing an ever increasing level of service.

The bill allows more choice about membership and encourages competition and better service among unions. However, where that competition results in adverse effects for innocent third parties, the bill gives the commission power to make orders about the representative rights of organisations.

One of the major union organisations in the country, the Labor Council of NSW, in its submission to the Senate Economics References Committee, in the context of division 7A, acknowledged that the provisions relating to disamalgamation will:

> . . . reduce, if not remove, the monopoly position of unions and lead to an increase in competition. This in turn will result in unions offering additional services to members and by necessitation, becoming more accountable, if this is not already the case.

There is an admission. Just as the public face of Australian work will benefit from freedom of association, the private face of Australian work—the families it supports—will benefit significantly from the industrial relations bill.

For too long, the industrial relations system has been geared towards the needs of the male full-time worker at the turn of the century. In 1996, there are many different types of workers and many different types of families, and all deserve a system which helps workers to balance their family and work responsibilities by developing mutually beneficial work practices with employers.

The rigid, paternalistic focus of the system meant that workers who did not want to work

full time were forced to accept precarious casual positions, with no guarantee of security and little or no access to award protection such as sick leave, carers leave and maternity leave. Mothers, fathers, carers, students—all of these groups were victimised by a system which refused to adapt to the changes in their needs. In particular, women, the old, the young and often the sick were the very people that the award system claimed to protect but these people were, in fact, locked out of the safety net.

It is a measure of this commitment that we have incorporated these goals into the very objects of the act. The commission has to consider these objects when performing its functions, so ensuring the development of mutually beneficial work practices between employers and employees.

The bill has much to recommend it, and I am unfortunately limited by time. The workplace relations bill is about much more than keeping the promises of one election campaign. It is about creating a fair and flexible system capable of achieving high productivity, employment growth and better pay and living standards for workers—a system which will allow this nation to extract all the benefits from the global economy whilst avoiding many of the pitfalls.

As Tim Colebatch very recently put it—it might have even been today:

> If there is one thing business wants from the Howard government, it is to see its workplace relations legislation become law. It is the one area where the government has promised business reforms that appear achievable and unequivocally beneficial.

**Senator FOREMAN** (South Australia) (9.37 p.m.)—Senator Patterson, you mentioned, and interrupted Senator Forshaw—

**Senator Panizza**—I did, too.

**Senator FOREMAN**—You did, too, and Senator Patterson made the point that we interrupted you. Well, I think you did the same. Senator Patterson mentioned the fact that she has made a speech supporting employees when she was referring to Senator Forshaw. To hear her words this evening, you could have fooled me.

I do not think anything in Senator Patterson's speech could be derived as meaning she would be likely to help in the servicing of the wages and conditions of any employee. I do not think that Senator Patterson has had much experience at all in some of the areas about which she spoke. She also stated that a lot of us on this side of the house have not worked in many different places in industry, business or on the land. However, I do not think she has checked us all out.

The Workplace Relations and Other Legislation Amendment Bill 1996 represents the biggest single threat to the wages, conditions and lifestyles of workers since federation. Going into the March federal election, the member for Bennelong, Mr Howard, gave a 'rock solid guarantee' that no worker would be worse off under a coalition government. Here we are, just seven months later and our nation is facing massive changes to its industrial relations laws. They are changes which will see workers on federal awards forced into state systems; and they are changes which will place workers at the mercy of their employers.

Industrial relations is, and always has been, about the impact of workplace policies on people's standard of living. At the core of this debate are the levels of workers' take-home pay, their conditions, holidays, penalty rates, safety, and access to an independent umpire. The vast majority of working people and their families in Australia rely upon the protection of the award system, the Industrial Relations Commission and the social wage.

To the previous government, industrial relations was a central issue in the lives of all Australians. We believe that, whilst the system has to be contemporary and relevant to changing conditions in the workplace, it has to focus on the standard of living and quality of life of Australian workers first and foremost.

Let's face it, there have been major changes in the workplace environment over the past decade. Developing technologies and a changing economy have made it most difficult for many Australian workers and their families. However, the previous government, of which I was a part, approached these changes in a

conciliatory and consultative way—through the accord process. I would not like to think the people most vulnerable to changes in the economy, working people, should have to bear the brunt of the government's ideological bent to change the IR laws for their mates. Ask workers whether they feel comfortable and relaxed about their lives at the moment and they will give you a resounding no.

This bill will not help people get jobs either, as evidenced by the government's own admission that unemployment will still be at eight per cent by the end of the decade. Those who proclaim that this legislation is the basis of an economic miracle are denying overseas experience and showing scant regard for associated social problems.

The Australian Labor Party remains committed to the award system whilst it provides flexibility for workers and is to their advantage. At present, awards are living and breathing documents. They reflect the standards of our society—not just in the terms of basic pay issues, but in a wide variety of areas. Australians value the openness of the IR system where standards are set and benchmarks maintained. There are no secret deals. Unionists have always been open about their demands because it has always proved best to get community support.

The government wants individual contracts to be between the employer and the employee. They want collectivism out so that workers cannot compare notes during the process of decision making. They want workers to deal with contracts themselves, without outside support. Despite the fact that the employer will have company lawyers and IR experts, the individual worker is expected to make decisions and understand the ramifications of a complex legal document.

Australian workplace agreements are just the same as the individual contracts which were mooted in Fightback. Individual contracts in New Zealand, for example, have forever changed the position of workers in negotiations of wages and conditions. This has seen a deterioration in the wages and conditions of the vast majority of workers in that country.

It is unfair and most undemocratic for workers to be denied representation by unions. Employers will have enormous power to have union representatives excluded from work sites, if this legislation is allowed to pass as it stands.

The legislation at hand has a number of unpalatable components, but it is the intent of the legislation that should be of concern to working Australians. With the introduction of this bill, the government sets a confrontationist tone in the workplace. I find most of this legislation abhorrent as it is an attack on the working people of Australia.

Even before the effect of the Australian workplace agreement is felt, we can say that workers will be worse of under this legislation. By allowing state enterprise agreements to override federal awards, many workers will be forced into the inferior state industrial relations systems. At present Victoria, Western Australia and Tasmania have the most regressive laws. However, conservative governments in other states and territories are only going to be spurred on to replicate the Kennett and Court models with this legislation.

Let us look at the nature of the Western Australian and Victorian legislation. In the west the minimum wage is set by the minister. Apart from wage issues, there are only a few other areas that are covered in the minimum conditions. These include the number of sick days, annual leave, parental leave and public holidays. The act specifically discourages employers from venturing into the establishment of other minimum conditions as part of individual contracts.

The Victorian laws are just as scant on detail and, whilst the minimum wage is set by the Victorian commission, the other provisions are certainly at the stingy end of the scale. Five days sick leave may be enough for most workers in most years, but get a good dose of the flu or a common ailment which requires hospitalisation and the like and you are going to be losing pay.

What about young people? Young workers are always amongst the most disadvantaged in this bill. New workers are always least experienced at dealing with employers and it

is likely that they will be in a very weak position when it comes to negotiating an individual contract. The proposal for junior rates of pay also means that people will be working for amounts that are no more than social security benefits.

The severity of this policy is exacerbated by the fact that the government does not believe that time spent at TAFE or off the job training should be paid. The government has now revealed that they want young apprentices and trainees to be paid the same rate as the youth dole. This would see full-time workers in this position paid a wage of $70.30 per week. If you do not accept a job under these conditions then you lose your entitlement to unemployment benefits.

A $3 an hour youth wage proposal was taken to the 1993 election by John Howard as shadow IR minister and it was rejected. Labor does not believe in a junior wage; we believe in rates of pay that reflect competency rather than numerical age. I am also concerned about the impact that this legislation will have on other vulnerable workers. There is no doubt that many women, migrants and disabled people will be at a great disadvantage under this bill.

The Industrial Relations Commission is a central feature of Labor's approach to industrial relations. It is our belief that there should be an independent umpire to ensure a smooth working and fair system. The workplace relations bill has at least 36 measures which will help to gut the powers and functions of the AIRC. Some of the changes contained in this legislation would see the following downgrading of the role of the Australian Industrial Relations Commission.

First, the commission's power to prevent or settle an industrial dispute by arbitration would no longer be a general jurisdiction but rather would be confined to 18 prescribed matters. Second, the commission's powers to make awards dealing with the limited prescribed powers would be limited to setting minimum rates. Third, the commission would be precluded from making or varying a paid rates award. Fourth, the commission could no longer review enterprise or workplace agreements.

Fifth, the commission would be deprived of the power to limit the level of part-time employment offered by an employer. This would see a casualising of the work force making full-time jobs, which this government claims it supports, a thing of the past. Part-time workers will also be at the mercy of employers when it comes to setting down their hours of work. These are just some examples of how the commission will be devastated if this legislation is allowed to pass.

All of this unfortunately means that the commission is denied the overall role of ensuring industrial harmony. It is this harmony that Labor believes must be the focus of our industrial relations system if it is to be effective. In many respects this bill is about removing the scrutiny that has long been the basis of our IR system. The commission must be the protector of individual workers and the broader industrial relations system. This process must be open and public.

I am very sceptical of the effectiveness of any employee advocate, or the like, which tries to provide advice or support to badly treated workers. How can any such office fulfil the role that should be the domain of a judicial type commission? Labor will stand up for the maintenance of a strong award system, with a commission and protection from exploitation.

Rather than moving away from broad and effective standards, we should be improving the IR system. Flexibility should not be in the interests of one party alone, which I fear will be the case if these laws ever come into effect. This Senate should be concerned about the fairness of the industrial relations system. I know that the Australian community certainly is. No government should be allowed to get away with proposing such draconian and socially flawed measures. The Australian people were deceived by the Prime Minister's shallow promise. Let us hold him to his word and make sure that no Australian worker is worse off.

**Senator FAULKNER** (New South Wales—Leader of the Opposition in the Senate) (9.50 p.m.)—In my view, the Workplace Relations and Other Legislation Amendment Bill signals

the end of cooperative industrial relations as we know it today. This legislation in fact attacks the very core of an industrial relations system that has served this country and its people well for decades. The industrial relations system, our industrial relations system, was built on the core principles of equity, equality and efficiency. These core principles are not only eroded but devastated by this legislation.

This bill represents another demonstration of the coalition's betrayal of the Australian people. They have broken promises and revealed their true colours now on many issues of importance to Australians. They wooed voters with weasel words and they wooed voters with rhetoric about delivering to families, about protecting the poor, about protecting the needy and the most vulnerable in our community, about guaranteeing that no worker would be worse off under the new industrial relations regime. What greater show of arrogance and betrayal can there be than to present the people of Australia with legislation that so clearly defies all those commitments?

By allowing employers to reduce the wages and conditions of workers, by undermining the bargaining power of workers, by lashing out at trade unions and the role of the collective in enterprise bargaining, and by eliminating the role of the independent umpire, the Industrial Relations Commission, this government is opening the door for working men and women of Australia to be exposed to the worst possible extremes of the labour market and the worst possible extremes of the industrial relations system. It dangerously inhibits the opportunity for workers to defend and advance their working conditions in the way they have done for more than a century.

Labor recognises that decent working and living conditions are fundamental in building and supporting the living standards of Australian families and society as a whole. There is a very strong link between a worker's role in the work force and the quality of life that is enjoyed by a worker's family and children. This shift in society has occurred primarily because more women than ever before are combining work with raising families. Men, too, in increasing numbers are taking on a greater role in child rearing and combining those responsibilities with their work responsibilities.

The nuclear family model of the male breadwinner with the full-time female carer looking after the children—I think that is the only family model that John Howard contemplates—is no longer the norm for the majority of Australian families. The majority of two-parent families with dependent children now have both parents working. In 1992, one-parent families represented 13 per cent of all families. In 84 per cent of those, the mother was the sole parent. In 1991 almost 25 per cent of all marriages were remarriages for at least one partner. About 400,000 people had children under 14 outside the household due to marriage breakdown.

Families are changing and the workplace has to change with them. At least that was the direction of the industrial relations system that we had under Labor. We set awards to give minimum wages and certainty to families trying to budget. We set employment conditions—in particular maternity, parental and then family leave—with working families in mind. These measures placed the Australian industrial relations system way ahead in providing a comprehensive range of entitlements for working families and for society as a whole.

The role of the Industrial Relations Commission has been crucial in delivering conditions to Australian workers such as the equal pay for equal work decision in 1969, equal pay for equal value decision in 1972 and the maternity leave test case in 1995. This government's attack on the Industrial Relations Commission will eliminate the potential for further landmark developments with major industrial, economic and social consequences.

When Labor went down the path of enterprise bargaining, we acknowledged the potential for some sections of the work force—in particular women, migrants and young people—to be disadvantaged because of their vulnerability. However, enterprise bargaining under Labor was supported by the extensive safety net of awards and strict application of a comprehensive no disadvantage test by the

Industrial Relations Commission. I ask: where is the safety net in this legislation? The government claims that this bill will allow people to better integrate work and family responsibilities by 'assisting employees to balance their work and family responsibilities effectively through the development of mutually beneficial work practices with employers'.

Labor felt strongly enough about this and other related issues that we referred this legislation to the Senate Economics References Committee for a very detailed and thorough consideration. The outcome of that reference was the report on the consideration of the Workplace Relations and Other Legislation Amendment Bill 1996, tabled recently. That inquiry revealed what many of us had already feared: that the reality of this legislation is that not only does it not provide for workers with family responsibilities but also the existing support would actually be weakened.

The ACTU identified the key measures that would undermine workers' capacity to balance employment and family responsibility as: removing provisions guaranteeing part-time workers minimum and maximum hours; stripping the commission of any ability to reject agreements on the grounds that they disadvantage workers with family responsibilities; removing requirements for consultation and information, especially in relation to women, young people and workers whose first language is not English; and repealing the current requirement for an annual report on developments in enterprise bargaining.

Removing award provisions guaranteeing part-time workers minimum and maximum hours will massively undermine part-time workers' income security. They will no longer have the guarantees of a certain amount of employment, because the distinction between permanent part-time employment and casual employment is being eroded. This measure is particularly harsh for working families, especially working mothers. Income security is vital when dealing with family responsibilities. Uncertainty in this area creates unnecessary tensions and problems for families.

This measure will also have a significant impact on families when trying to organise child care. As Human Rights and Equal Opportunity Commissioner Sue Walpole along with a number of others have pointed out, about 85 per cent of part-time and casual workers are women. While women do want flexibility and access to part-time work, the reason most women pursue part-time work is their family responsibilities. Therefore, the flexibility offered by this bill is not the kind of flexibility desired by working families. Workers with families need, and are entitled to, predicability and security, especially when they are organising child care because you just cannot change a child-care arrangement, as you know very well, Madam Acting Deputy President Crowley, at just an hour's notice.

The report also highlighted the grave concerns raised by the Human Rights and Equal Opportunity Commission. It said that the bill would:

> . . . undermine its stated intention of better integrated work and family, and will exacerbate further the problems faced particularly by women and people with disabilities, who are already concentrated in areas where there is inadequate award coverage, as casual and contract workers as well as outworkers, and have little capacity to have their industrial rights enforced.

I was interested to read the committee's conclusions, which state:

> While industrial relations has traditionally focused on work, there is a growing recognition that ensuring an appropriate balance between work and family life is an important goal both for the purposes of adding to an employee's well-being and for achieving efficiency and productivity. A holistic approach to industrial regulation that takes into account family responsibilities is of considerable value.

It also said that many of the measures proposed in the legislation:

> . . . will cause problems not only for employees at work, but also for attempting to balance family commitments. In our view, restricting the powers of the Commission to arbitrate in relation to wages and conditions of employment, and allowing agreements to be made which can undermine those wages and conditions presents a real prospect of putting pressure on the ability of workers to meet their family responsibilities.

The social costs of implementing these measures will have a devastating effect on families in Australia. It will dictate their level of income, their level of spare time and the way they manage their time not only for themselves but for their whole family. Parents may have to work longer and more irregular hours with less time to spend with their children. Conditions such as holidays may be eroded. Weekend work might be foisted upon workers. If maternity leave is written out of an agreement, women will be forced to return to their jobs or forced to give their jobs up.

This legislation is a real Pandora's box of nasty measures that not only are anti-worker but also are anti-family. This legislation single-handedly unravels over 100 years of hard-won gains. Thousands upon thousands of Australian workers have sweated blood to achieve conditions that allow parents to have time with their kids, to have decent holidays, to have income security, to have leave to look after their children and to have weekends and recreation time to share with their families. This is what the Australian union movement has achieved by uniting workers as a collective under an industrial relations structure with a strong independent umpire and by working cooperatively with employers.

I believe the union movement in this country has always been both pro-worker and pro-family. I say without any hesitation and without any doubt that this bill is both anti-worker and anti-family. We have a government in office that claims to be pro-family. It claims that no worker will be worse off under this legislation. It claimed before the election that it would protect the poor, protect the needy and protect the most vulnerable in our community. But the measures contained in this bill go to the heart of families and their capacity to achieve and sustain a decent standard of living.

The Labor Party has always had a vision for Australia of a system of social democracy where fairness and equity are the guiding principles, where wealth is not just created but shared, where opportunities and choice are open to everyone and where those unable to access these opportunities are properly protected and properly cared for. On this side of the chamber we stand for a tolerant and a fair society which offers a fair go for all. The industrial relations system that we have enjoyed until now was based on that vision and on those principles. Its cornerstone, the award system, has been integral in establishing and continually improving the living and working conditions of all Australian workers.

We do not forget on this side of the chamber that the Labor Party was originally formed to give political expression to, and parliamentary representation to, the Australian trade union movement. We have maintained our links with the trade union movement for over 100 years, and everyone in our parliamentary party is very proud of those links. Representing the interests of Australian workers and their families as well as the disadvantaged in our community is, I can assure you, something that continues to motivate and drive the Australian Labor Party.

I want to say this in conclusion. I can assure all members of the Senate that the Labor Party and, more broadly, the labour movement will remain implacably opposed to this draconian and unAustralian bill.

**Senator MURPHY** (Tasmania) (10.10 p.m.)—I would like to contribute to this debate by saying at the outset that I oppose the Workplace Relations and Other Legislation Amendment Bill, and I will go on opposing it as much as I can. I will try to convince as many of my colleagues as possible that we should not even seek to amend this bill. We should just seek to have it defeated because, essentially, all it does is weaken what I consider to be an already weak industrial relations system.

Due to the circumstances that Australia finds itself in—in so far as workers are concerned, whether they be union members or otherwise—we have developed an industrial relations system out of need. Workers needed a process through which they could achieve some equity in an otherwise very inequitable process of work and work related matters. The very reason we have the current industrial relations system is that workers were exploited. I sometimes think we need to remind ourselves of the fact that we do have this

industrial relations system because of that, because we had child labour.

I have heard members on both sides of the chamber on many occasions condemn other countries because of those acts that continue in some countries. That must be of great concern to all of us, but the fact is that it was not that long ago when we had it in this country. I have to say that in some respects, particularly as it relates to some of the youth of this country in this day and age, it still goes on.

Therefore, any proposal that seeks to weaken the ability of workers to protect the equity that they rightly deserve should be defeated. We should not tolerate a situation where we have, as we do now, a proposal before us that seeks to make workplace agreements a secretive affair between the worker and the employer.

Of course, the other aspect of this is the argument that unions have become too powerful. I guess we have to think about that in the context of history. It was really workers who created unions, and they did so because they needed a capacity to actually provide themselves with an opportunity to negotiate and to represent themselves. Therefore, they formed these collective bargaining units known as unions.

We often hear, particularly from Liberal and National Party members and senators, that unions are basically for union officials. It is a nonsense that is portrayed when you really do not have a reasonable argument to present for wanting to change something. I think that is a very interesting position to try to take. At the end of the day, unions are only ever as strong as their members allow them to be, because it is ultimately the members who have the say. That has been the case historically and will be the case in the future. I think, for as long as unions continue to exist, that will be the case.

I know Liberal and National Party members and senators always overestimate the capacity of trade union officials. As a former trade union official, I take some pride in that. I guess, as some other senators have said tonight, it is a very humbling thing to represent workers. From that point of view, we—

**Senator Panizza**—You have never been humble.

**Senator MURPHY**—Absolutely, Senator Panizza. I am very humble both to have worked as a unionist and to have at least benefited from understanding some of the history associated with the struggle for equity.

It is not about getting something that is not rightly yours. It is not about getting something that you do not deserve. It is about equity in society. You argue your case before the current Industrial Relations Commission. Why do we have that system? It was really developed to remove from the Australian workplace the dog-eat-dog system where, in some cases, you had large numbers of employees who had a greater industrial capacity who could actually bargain for much better conditions and wages. I know many people would know that, including Senator Panizza. But, of course, it also provided an orderly process for employers. They knew that they would be able to go forward and argue their case and have any dispute settled in a proper and orderly manner.

We have had that system for a long time. We have got awards that are attached to that system. We have workers and employers. I say workers because it does not matter whether or not they are union members. It is just the fact that I think many generations of workers now have really never understood, or have forgotten, how those things were put in place in the first instance. They were put in place by unions, by organised workers who fought the good fight to get equity into the system.

I heard Senator Patterson say that some workers do not want to be on strike or that some workers do not want to be in a union, et cetera. That is fine. But, at the end of the day, it is really a matter of people looking at how they got four weeks annual leave, how they got minimum rates of pay or paid rates awards or awards in general. Once people think about that, and do not just somehow develop an opinion that a government created these things and granted them to the worker, I think most people's views of what is being proposed at the moment would be somewhat different.

As I said, the reason I am opposed to the bill is because I think it weakens what is already a reasonably weak system. Under the current system, you get huge numbers of examples of exploitation. I can give you an example in my own case when I was shearing. I was really just at the stage of learning shearing. I had a learner's pen in New South Wales. In those days, we used to have what was called a shed rep, and the shed's representative was responsible for going around and checking to make sure the conditions were right, that the cook had all the pots and pans that the cook needed, the toilets were clean and so on. We had a principle of one man, one job.

I raised an issue with the employer at that time about a particular matter and, ultimately, although I was promised to go on to various other sheds to work, I suddenly found that I did not have a continuation of work. If it was not for the union, I would not have. I would have had no capacity at all to argue my case. It was at the direct discretion of the employer as to whether or not I continued in my employment. He just said, 'Well, the other workers don't want to work with you because you're making trouble.' In fact, that was not the case. If it was not for the union at the time, the Australian Workers Union, I would not have continued work with that employer.

When I took on the job as a union official with the timber workers, I can remember going to a place called Morgan's Sawmill, just out of Launceston. When I arrived there, there were, I think, eight employees. There was only one employee who was over the age of 18. And yet, in the award, there was a requirement for some of those jobs to be done by persons older than 21. None of them had safety gear—not one. Of the eight, seven were being paid junior rates of pay, for which there was an award that clearly stipulated that there were adult rates of pay.

In the case of the recent inquiry into this particular bill, I listened to a young person in Queensland who worked for Toys 'R' Us. Because he joined a union, because he had some concerns with regards to his conditions of employment, he found that his hours were substantially reduced. He found that his employer was making comments to other employees that, should they choose to join the union, should they choose to buck the system, they could well find themselves confronted with the same situation where their hours would be reduced.

In Western Australia, I found it very interesting to hear from another witness to the inquiry. I will read an excerpt of the transcript. It is from the evidence of Kristen Leanne Laird. In her opening remark she said:

I am a year 12 student at Belmont Senior High School. For the last few years, I have worked as a casual shop assistant to earn money both to spend and to save. In December 1995, I went in to work one day to find that my name was not on the roster. I approached by manager only to be told that if I wanted hours I had to sign a workplace agreement which would mean a substantial reduction in my wages.

This, of course, is in the current system which operates in Western Australia, not dissimilar to what is being proposed by the current coalition government. She went on to say:

I could not see any alternative so I did sign the agreement and immediately I had an abundance of work.

In January 1996, I came to my senses and had the agreement cancelled through the commissioner. This resulted in an abrupt phone call from my manager who said that, until further notice, I had no rostered hours. I have contacted the store three times since that day. It soon became quite clear that I was no longer considered an employee there.

Although, deep inside, I know I have done the right thing, it does not change the fact that I now have no job, no money in the bank and no petrol in my car.

Of course, that is just one example of, as I said, the exploitation that can occur under current systems. There is another one. Miss Mikelanne Pearce says:

I am 18 and a full-time student at Edith Cowan University. I am doing my first year of a Bachelor of Education course. I work for a small grocery store, Cheap Foods, in a Perth suburb, Inglewood—

perhaps you might know that, Senator Panizza—

on a casual basis, primarily as a checkout operator. I started on 10 April 1994 and I regularly worked four days a week—Monday, Tuesday, Friday and Saturday morning—between two and four hours a day. I was often asked to work extra shifts to cover other workers who were absent.

She goes on to make some points with regard to her being requested to sign a workplace agreement. This is not dissimilar to Ms Laird's position. Finally, she says:

> On 5 January 1996 at the conclusion of my Friday night shift I was told that I need not come in the next day, which was Saturday, for my morning shift because they no longer needed me and that I was not needed for my Thursday night shift the following week, or any other for that matter. My rostered 12 hours had been reduced to four hours.

Of course, that is a fundamental point when we think about the possibility of exploitation under this new legislation. It can happen under the current system that the coalition government says is too restrictive. The government says that we have to free up the labour market system and that we have to make it weaker to allow employers to employ more people. There is a fundamental lack of evidence and simply no case to support that argument. If there is any case, it supports exactly the opposite thing: that you need a more restricted system to stop workers being exploited.

I heard Senator Lundy raise the issue of contracting out. I will give you another example in the timber industry, in forestry, which relates to fallers and bush workers. These workers are being told that they are now contractors and that they have to cover themselves for workers compensation. They simply cannot do it because they cannot afford to do it. They subsequently employ other people who have no workers compensation coverage and no safety in terms of equipment. There are no checks and no balances.

As you would all know, under the current system we have got—I think we have still got it—the old Department of Industrial Relations, under which there is an award management branch. I want to relate that fact to what is going to be called the Employment Advocate. I hope we never get it, but let us assume that we do. The awards management branch at this point in time is charged with the responsibility for monitoring award and employment breaches. It cannot do it. It has no hope of doing it. I can tell you now from a ex-union official's point of view that, if you asked the awards management branch to, firstly, check on something and, secondly, prosecute the employer, it could not do it. It does not have the capacity.

When government senators make a contribution to this debate I ask that they stand up and tell this chamber whether the office of the Employment Advocate will be a seven days a week, 24 hours a day office; what capacity it will have to prosecute; and how it will conduct its investigations. The Commissioner for Workplace Agreements in Western Australia could not tell me that. What he did tell me was that agreements were registered that did not even contain the minimum standards. You really have to wonder why we are even debating this issue when you think about all these things.

The other big bugbear for the Liberal and National party government members is this business of compulsory unionism. I want to know where it exists. Where does it exist? Does it exist in the Pilbara, Senator Panizza? No. Does it exist at Weipa? Does it exist at Mount Isa? No, it does not. It does not really exit anywhere.

**Senator Boswell**—It does.

**Senator MURPHY**—Senator Boswell said that it does. You say that it does, but I just gave you some examples where it does not. They are big employers with big numbers of employees, so do not tell me it does exist. When you go down to the small end of town—to the people you keep purporting to represent—where does it exist there? Where is the capacity for any union to go to a small corner store and say, 'We want the people in the union. We want you to be a member of a union'? That is rubbish in the extreme and you know it.

I want to deal with this bill in terms of its proposed hours of work—no minimum, no maximum—and in terms of the issue of minimum rates awards versus paid rates awards. The abolition of paid rates awards will have an effect on so many industries. What effect do you think the abolition of paid rates awards will have on workers in the public sector and on workers in the private sector such as nurses and teachers? These workers have paid rates awards for many things, including supplementary payments.

Even the timber industry has supplementary payments. Supplementary payments represent a large proportion of the take-home pay of those workers. The government says, 'Okay, there is going to be this period of time'—I think it is 18 months, off the top of my head—'when you have the opportunity to negotiate and finalise either a minimum rates award or, indeed, some form of workplace agreement.' What happens if you do not do that. What happens to the workers who cannot reach agreement? I will tell you what will happen to them: they will have their pay reduced.

That brings me to another point. The now Prime Minister made a fundamental promise to the workers of this country that they would not be worse off under a coalition government, that they could only be better off. However, all aspects of this bill that is proposed tell you that there is no capacity for them to be better off—none, zip—because they simply will not have any capacity to negotiate. This particularly affects those workers who are in the largest area of employment—small business—and it particularly affects women workers who are in the hospitality and service industries, because they are already confronted with problems that relate to hours of work.

I cannot for the life of me understand the arguments that you have been putting up about the need to change the current system—they really do not stand up. I hope that the Democrats, and in particular Senator Murray, will oppose this legislation, because it needs to be defeated. It does not need to be amended.

**Senator BOSWELL** (Queensland—Leader of the National Party of Australia in the Senate) (10.30 p.m.)—I take a different view from Senator Murphy, although I was very interested in the practical experience he has had as a union representative. I support the Workplace Relations and Other Legislation Amendment Bill for a number of reasons. I believe it is very important for the future of Australia. Reform of our industrial relations system has been an urgent imperative for a long time. The structural reforms achieved as a result of this legislation will help many Australian businesses to be internationally competitive. We saw the previous Prime Minister deregulate almost everything from the farm sector to the financial sector and then he was not prepared to move on the industrial relations system. Of course, you cannot do one without the other.

This legislation is going to allow us to be more internationally competitive and allow businesses to reach this level, as they will have to if we are going to maintain the pace and create employment. We must be internationally competitive and remove all the present constraints that restrict innovation, flexibility and maximum input from both the employer and the employee. Along with other vital reforms, such as reform of the waterfront and general transport areas, this government will deliver Australian business, both in the domestic and export market, into a much better and fairer position so that we can get into that world village that Mr Keating continued to tell us about before his demise.

I want to address how this legislation will help two sectors of the industry that are important to the National Party and most important to the Australian economy. It will enable the regeneration of the small business sector, with its ability to grow and prosper and create more jobs, and it will benefit the rural sector which has gone through the hard yakka of its own reform processes but was being held back by the need for industrial relations reform.

Australian primary producers have taken their share of the pain over the last decade in their quest to become internationally competitive. They bore the costs and the pain of restructuring their businesses and have established themselves as leaders in international markets. It has not been easy, coinciding with the times of excessively high interest rates, prolonged drought and, in some instances, low commodity prices. At enormous cost, thousands of farmers were forced to leave the land. The end result is internationally competitive industries such as sugar, wheat, beef, wool, wine, dried fruits, cotton—and the list goes on.

As primary industry is predominantly an exporter, it has continued to suffer as other

essential reforms that were needed have not been delivered—on the waterfront, in shipping, in processing and in transport generally—and it has been burdened with the harsh reform processes that it has gone through for its continued good health.

As I said, the sacrifice to reach levels of international competitiveness has been at enormous cost to the rural sector. Rural producers now have the second lowest level of protection in the world, just behind New Zealand. They lie totally exposed to world prices and are reliant on continued international trade reforms to achieve a fair international trade regime. Senator Margetts would say that will never happen, but we live in hope rather than expectation. They cannot be held back for want of other reforms in the economy—and the most fundamental reform is of the labour market which this bill will address.

It is the same with Australian small business. If there was ever an issue that got the resounding support of small business and swayed their vote accordingly—not only their vote but their capacity to get out and campaign for the coalition—it was the need for labour market reform. If there was one issue that won the election, it was the cry from small business to reform our unfair dismissal laws which were introduced by the Labor government, in their stupidity, which were costing the unemployed jobs and which small business realised, from experience, that they could not afford to be part of.

The Labor government would not reform the labour market in a substantial way. That unbreakable and non-negotiable nexus between the Labor government and the unions acted to restrict labour market reforms—a relationship that had to be rejected by the voters of Australia for the good of the country. During the Labor Party's term in office, we saw unemployment reach 10 per cent—at one stage, one million people. Labor ended its reign of 13 years with 8.9 per cent unemployed, 250,000 people in mickey mouse jobs and nearly 28 per cent of our youth unemployed. Also, real wages for workers were stagnant, falling for most of the Labor years in office. Some people said it was even a 90 per cent reduction in real terms.

Fundamental reforms of the labour market are the only way to go to lift wage levels, to lift living standards for Australian workers and to create real and meaningful jobs for the unemployed. But Labor was not prepared, or courageous or committed enough, to take this country's long-term interests into view. Consequently, we are left with high unemployment—made worse because of job-destroying unfair dismissal laws—and with areas critical to our international competitiveness, such as the waterfront, going backwards compared to our major competitors.

In our primary industry, the beef industry is seriously hampered by outmoded work practises preventing producers and processors from reaching productivity levels which are demanded in a fiercely competitive world market and export industry. The big end of town has long extolled the absolute need for labour market reforms, but industries which formed the engine room of our domestic economy and all forms of small business, whether it be retail, service or tourism, were all suffering from needlessly destructive workplace practises that have been allowed to become entrenched and destroy the very jobs and opportunities they had the capacity to create.

I would be concerned if these reforms were found to be unfair or unreasonable. While our economic state at the moment demands we address urgently our need to be internationally competitive, I would not accept for one moment these reforms if they were going to be to the detriment of working Australian men and women. But I do support wholeheartedly the government's industrial relations policy. With its purpose of structural reform of the labour market to meet demands of world competition, and because these reforms are also directed at increasing living standards for all Australians, it is expected that they will lead to higher employment, a more secure economy and better paid jobs for Australian workers over time.

I am one of the people here who have actually employed a number of people during my period as a senator and in my previous

experience as a manufacturers agent. Let me inform the people on the other side that, if you get a worker who puts his back into the job or even gives you a fair effort, you hang onto him desperately and you encourage him in every way to stay. In my own experience as an employer of 10 people, I paid for the marriages of my people's kids. I bought different things when they were in need only to encourage them to stay. So this direction that people will exploit workers is absolutely foreign to me because it has been my experience that you hang on like grim death to anyone who is prepared to give you a fair day's work.

I believe this legislation will be fair. It sets out guaranteed minimum award conditions. It allows workers to voluntarily enter into workplace agreements that are to their eventual benefit and removes many of the impediments that have been holding back Australian business success and better employment prospects such as compulsory unionism and outdated work practises.

This legislation is directed at award simplification. It will convert paid rate awards to minimum rate awards. At the moment, paid rate awards cover 1.7 million employees in the public service, the community sector organisations, health, education, the airlines and the oil industry. The government's policy objective is to ensure that workers on paid rate awards have the same incentive to negotiate productivity based agreements as the vast majority of Australian workers who are on minimum award rates. Minimum award rates will cover fewer matters than paid rates. The AIRC's jurisdiction to incorporate matters in awards is confined to certain allowable matters.

Awards will become a true safety net with all other matters determined at the enterprise level between employer and employee. After 18 months, any award provision outside the allowable matters will no longer be enforceable and minimum awards, as proposed by the government, will cover issues such as minimum rates of pay, ordinary time, hours of work, span of hours, overtime loadings, penalty rates, various leave entitlements, notice of termination, allowances, stand-down provisions, redundancy pay, dispute settlements and so on.

This bill provides for Australian workplace agreements, AWAs, which replace the current enterprise flexibility agreements. These are the certified agreements struck between employees, employers and unions which presently exist. Under the AWAs, the government has proposed employees will be able to appoint a bargaining agent, which includes a union, to negotiate on their behalf.

There is great detail in this legislation, but I want to pick up just how it affects the constituency that we represent. I have represented the National Party for 14 years in this parliament. I have seen the ravages inflicted on the bush by bad industrial relations policy. I am pleased that, within months of winning office, the government is tackling the problems that have faced primary industry and small business for years.

Again, I want to refer to the beef industry. We have seen report after report concluding it was in need of desperate labour market reform. Lower processing costs in the US and New Zealand act as a tremendous marketing burden for the billion dollars in the Australian export beef industry. No doubt, many people have heard these figures before. Australian processing costs stand at 112c a kilo compared with America's 41c and New Zealand's 71c.

The Booz Allen report last year showed reforms in the processing industry could save more than $750 million a year. It highlighted a 125c per kilo performance gap between the best abattoirs in Australia and the United States. The report stated that 30 per cent to 40 per cent of the performance gap can be addressed by the industry and that every 5c reduction translated to $100 million in annual savings. I suggest that it would have been split up between the workers, the processing industry and the beef producers.

My office did an independent study earlier this year. We checked it with the AMLC, which pointed out that cheaper production costs enabled the US producers to land their beef in Australia at a clear $1 per kilo advantage over the Australian producer. There has also been a Meat Industry Commission report

on meat processing that identified the same barriers to competition, calling for sweeping reforms to the meat industry's industrial relations system in its culture of conflict. We were told again and again by the Labor government about the need for labour market reforms which were crippling our beef industry, our second highest export earning primary industry, and still they did nothing.

Until now the meat industry has maintained its competitiveness by grossly underpaying its primary producers. Clearly, for the health of the industry, that cannot be allowed to go on. Already we now see prices of around 91c per kilo live weight for beasts similar to what we were producing for about 153c per kilo only a couple of years ago.

At the start of the reform process in the beef industry the government has acted by setting up a steering committee and a task force to identify the agenda for reforms. The time is overdue for reforms. I take cognisance of what the Labor Party has said. I have listened carefully to the previous three speakers from the Labor Party. They raise concerns, and I take those concerns very seriously. I think we have to be forever vigilant to see that some of those anomalies that have been raised do not become the norm but are stamped out. This government did give a commitment that no worker would be worse off. If the opposition is worth its salt, I think it will enforce that commitment by raising any issues that it can to keep the government on track.

As I said earlier in my remarks, Mr Keating has deregulated everything. That is the way the world is going; we have to be internationally competitive. The way the business industries are formed, we can no longer lock ourselves up in an $18 million market. But everyone has to carry the weight. The farmers have made their contribution and the small business people have made theirs with deregulated shopping hours and one thing after another.

I say to those in the Labor Party—I know their intentions are honourable—that they cannot isolate themselves. You were the guys who set the agenda running. You cannot isolate and just pull out a section that you represent any more than I can say to my farmers that we are going to build a tariff wall around Australia and we are going to protect your industry. That would be false to them and it would mislead them. I say to you that you cannot mislead your workers. You can reach down to the populist level, but be honest with them and say to them, 'We have to meet the market and we can no longer allow the beef producers in America to come into Australia at $1 per kilo less than our own production in Australia.'

I suspect that the bill will have a few prickles in it. There will be anomalies. I challenge the Labor Party to keep the government up to the mark on their commitment.

**Senator MARGETTS** (Western Australia) (10.49 p.m.)—I rise to give my position in relation to the Workplace Relations and Other Legislation Amendment Bill 1996. In order to explain this, I would like to start with the philosophical underpinnings of this bill. To look at those you probably need to go no further than the principal object of the Workplace Relations Act. I believe those principal objects in the main are inappropriate, old-fashioned and counterproductive. I will pick out a few to give you an example of why that is the case.

High employment is an admirable goal. It is an admirable goal for economic policy. But is it an admirable goal as the prime goal for a workplace relations act? Why is this a problem? It is a problem because included in the principal objects of the act is the goal of international competitiveness. Senator Boswell made some mention of this, and I will be speaking about it a bit further.

If we are going to go back to the ideas of the 1930s we are assuming that the main goal here is to deregulate the labour market to the point where wages and conditions reach a low enough point that they soak up the level of unemployment. That did not happen in the 1930s because people reached lower and lower levels of equilibrium—that is, if everybody is doing the same thing, the average person is unable to buy the goods and services offered by the businesses in that community. We are also talking about the small

businesses in our community offering goods and services for the local market.

When you compete for the sake of international competitiveness, and if you make that the major object of your industrial relations system, in the end you get a system that cannot sustain itself—a market that is unviable. Along with that is the goal of low inflation. As I said, high employment is an admirable goal, but to leave your industrial relations policy as the main means for trying to gain that is a mistake.

Where do the Greens' principles fit into this? Amongst the four pillars of green politics, there are environmental sustainability and peace and disarmament. Also, there are social justice and participative democracy. On those bases, the Greens are participating as strongly as we can in this debate.

It has been admitted by both the government and industry, and many media spokespeople, in the course of this debate that the object of this bill is to change the relationship between employees and employers. Most of the people in Australia would fit into the category of employees. That means that there will be a shift: there will be greater power to employers and less bargaining power to employees. That is what the bill is seeking to achieve. So the vast majority of Australians will find that their position in agreements will be weakened.

It is true, as a number of people have pointed out in this debate so far, that the word 'bargaining' is absent. Why is that? It started out in the bills of the previous government, in the youth training allowance, for example, where you can have agreements without the ability to bargain. That is what seems to be the idea in this bill. You can assume that someone can be required to sign an agreement without the ability to bargain, without the ability to change that agreement or improve it if it is not acceptable.

I mentioned also that one of our main bases of concern is our principle of participative democracy. It is important that we increase the level of democracy within the workplace—not decrease it or work to a position where workers are frightened, disempowered and unable to speak up when they think that something is wrong.

That is not just with regard to their pay and conditions. I have heard many examples of people who are now frightened to speak up on issues of workplace safety and other basic human rights. We have examples in Western Australia where the object now is to point the finger at the workers. They say, 'Think safe.' It sounds good. But it means this: if there is a mistake, an accident, it is your fault, bud.

There are also moves in Western Australia to make sure that, in the case of an accident, the employer has the ability to sue the employee, if the employee is injured, for the damage they have caused to equipment. So, basically, people will be frightened out of legitimate compensation. That is where we are going in Western Australia. That is why people have legitimate concerns about being set free and about the mercies of a state based system.

I also would like to explain workplace relations in the broader context of the policies of this government and the previous government. We have certainly seen—and it has been mentioned by more than one senator, including Senator Boswell—an era in the last few years of huge change. We have seen financial deregulation with very little feedback about how the consumer has benefited, let alone in welfare terms.

We have seen huge changes as a result of Australia's participation in the Uruguay Round of GATT, which is now the World Trade Organisation. We have seen huge errors of judgment—many billions of dollars down from the previous government's assessment. Perhaps I should put on notice that I will be asking questions again to find out whether or not this current government has reassessed what the so-called benefits will be from the way we jumped, negotiated and kept a very blinkered, narrow approach when Australia negotiated for the Uruguay Round of GATT.

We then saw moves into competition policy. It is not surprising that many workers in Australian society are feeling dismayed after the previous Prime Minister, Paul Keating, asked, 'Why are you complaining? You have never had it so good.' But people

looked around and said, 'Things are not so good.' They were looking at basic issues like food, clothing and shelter which were no longer able to be produced, not only not in their local region but also not in their country.

They were also seeing and hearing—we will not be hearing it as often, I believe—the figures that showed that the exports out of Australia were not growing as fast as the imports into Australia. So people could see that we were billions of dollars out in our assessment.

So where has all this taken us? There has been no admission that errors have been made in the past in major decisions. We put all the eggs in the one basket. We add another scapegoat. So far the scapegoats have been Aboriginal people, migrants, students and the young unemployed. Now we are adding a further scapegoat: the worker, because the worker has not allowed the workplace to be deregulated enough.

The worker becomes a further scapegoat for previous bad decisions. Blame the worker and we blame the unions. If we continue to find scapegoats, we will continue to divert attention from any of those decisions that have taken place in the past that now are resulting in the new working corps—the blue collar workers who do not have stable jobs, who cannot get a home loan anymore because they cannot guarantee for how long they will be working, who have to have two jobs to get to the same place they were before and who simply are not sure about their future.

Those people are looking for someone to blame, and the ground on which to find scapegoats is fertile. The kind of debate we have had today, which has included the disgraceful use of Aboriginal communities in Australia as a scapegoat for many of these bad decisions, is an example.

So what is wrong with this bill? I will give you some examples, just a run-down of what I find odious about what has been presented to us. I find the idea of one-way contracts odious where there is no remedy for the powerless. I find employment advocates, perhaps people who have a dual responsibility and an in-built conflict of interest, odious. I find the isolation of individual workers odious. Now that is not smart. It might be what businesses believe they think is good or what they want, but it is not smart. It is not best practice. We should be moving towards a more democratic process in the work force, not a climate of fear.

We see changes to the Australian Industrial Relations Commission. But I wonder whether or not there is much point in having a strong umpire in a game with few rules except where power rules, okay. We are seeing a reduction in award conditions to minimums—back to the basic wage based perhaps on the Henderson poverty line, and then further cuts I imagine to anything which is considered to be a welfare safety net, because we have to keep that incentive, don't we?

If we move unskilled wages down to something near the Henderson poverty line, what then are we going to do for the unemployed? Perhaps we will see in the not too distant future some sort of mirror image of the new bill that has been signed by the President of the United States. Perhaps we will see an incentive for people to go out and get any sort of job for, perhaps, $2.50 an hour—any sort of job to try to get some kind of income. We will have people living in the streets.

I find odious the elimination of protection for vulnerable workers—part-time workers, casual women and people of non-English speaking backgrounds. I find it odious that we assume there is equal bargaining power for people in those positions—that people can be called to work half hours on Sundays and that people can be called in and not work but have to stay around for several hours in case they are needed and then sent home without pay.

I am concerned about the shift to individual contracts as opposed to collective bargaining. When you think about it, if we have the vast number of workers in a particular workplace on individual contracts or Australian workplace agreements, any strike for more than one person, unless they are on exactly the same contract, becomes a secondary boycott. How much do we isolate people? How much do we try to make people totally unable to fend against people who have more power than they do—to make sure that they have no

other choice but to accept whatever is offered?

There are people who say that there are benefits in this because, as Senator Boswell will indicate, a good worker, a valuable worker, has bargaining power, and that is true. People with scarce skills do have extra bargaining power and perhaps greater flexibility. Yes, I think that might be true. But what percentage of people are in that position? What percentage of people have skills that they know are in demand? What percentage of people know that they can ask for reasonable conditions and reasonable rates—that they can front up to their employer and not, under these conditions, be considered to be a troublemaker? What percentage of people?

I argue that if there is the potential for a minority of people in good bargaining positions to benefit, even though the majority may be in a weakened bargaining position, then the change is not a change for the better. That I believe was what was wrong with Senator Kernot's argument.

If we are saying somehow or other that in legislation we can change a few little aspects but totally change the bargaining position, if we are saying that because a few people can benefit and the majority will be in a worse bargaining position that we have actually made a change for the better, then that is a null and void argument. The bill will not go ahead unless this chamber votes for it. If what this bill does is weaken the bargaining position of the majority of workers in Australia, then that has been a retrospective step, and the people who will be responsible for that retrospective step will be those people who allow the bill which worsens the position of workers to go through.

If that bill gets improved along the way, that is obviously better than having a really rotten bill. But if a really rotten bill becomes a part-rotten bill and still gets passed, I would still blame the person who has let that part-rotten bill go through if it brings no real betterment for Australian business, Australian workers and, in fact, in my opinion, the Australian economy.

I find it odious that we can set people at the mercy of what a poor employer may do and can do. Because for all the people who have stories about what a good employer will do, I believe it is our obligation to make sure that this bill does not allow a poor employer to badly use their employees. We have believed for a long time in Australia in a fair go. I do not think, except by the virtue of somebody's goodness, that this bill will give a fair go to somebody in that situation, even those people who would like to give their employees a fair go. If their competitors are not giving their employees a fair go, there will be pressure, and I call this pressure a race to the bottom.

I do not think it is appropriate that the changes that occur as a result of this bill should be decided only by the government. If, in the end, the changes that I believe are necessary for this bill mean that the bill is unacceptable by the government, I believe that should be the principle upon which we all operate.

I have said for some time, in Western Australia and in this chamber, that I believe the union system is far from perfect. I believe that it is necessary to have the ability to respond to the needs of workers, especially those working in smaller businesses, those in non-traditional workplaces and women in the work force. There is the need for change. However, whilst unions may be far from perfect, a world without unions, to me, is horrifying. Justice in workplace relations cannot be, in my opinion, delivered by words in a bill. If there is no remedy for broken promises by employers to employees, no justice can be delivered if there is not the ability to enforce those rights.

It is for those reasons that I have deep and abiding concerns about this bill, and I have deep and abiding concerns about the direction in which it is going—for justice and for the purpose of participatory democracy. I believe that this legislation is going in the wrong direction for the Australian economy. I do not see that it has any means of achieving any of the lofty goals that it has set and, certainly, I believe it will go in the other direction in terms of employment in Australia. Therefore,

I am not convinced on the whole that this bill is worth supporting.

**Senator CARR** (Victoria) (11.08 p.m.)—I oppose this insidious and far-reaching piece of legislation, the Workplace Relations and Other Legislation Amendment Bill 1996, because I think it is fundamentally wrong. It is morally wrong. It is a bill that the most pernicious and reactionary elements in our society, of course, have welcomed. It is the sort of bill that reactionary governments in Western Australia and Victoria would pride themselves on. In fact, conservatives all over this country when in government seek to fall all over themselves in trying to produce the most reactionary of bills—and this legislation, of course, fits within that category.

The main objections I have to this bill are outlined quite clearly if one looks at it and examines the key changes to the current industrial relations system. Firstly, clause 89A of the bill removes the commission's ability to arbitrate on all issues in dispute or to arbitrate above bare minimum conditions. Second, clause 89A(2) seeks to confine awards to '18 allowable matters', with all other provisions becoming inoperative. Third, clause 89A(4) seeks to remove all protections from part-time workers so that hours can be reduced or increased to suit the employer. Fourth, clause 89A(3) seeks to abolish paid rates awards to prevent wage increases for workers covered by them. Fifth, this legislation seeks to retain discriminatory junior rates. Sixth, it seeks to stop workers transferring from state to federal awards and allow state agreements to prevail over federal agreements, even if this means that the worker is worse off.

Awards have been the cornerstone our industrial relations system. They ensure that people are treated fairly. They have been substantially updated and modernised in recent times. There are options for people to reach agreement about changes to meet the needs of particular workplaces. There is no need for the changes which have been proposed.

The proposed changes are also in breach the government's clear mandate. John Howard, in describing the coalition's intentions, stated:

> Employees will be given a choice to remain with the current award system or a Certified Agreement or enter into a Workplace Agreement.

Coalition policy, before the election, repeated that 'the award system will be maintained' and employees under awards 'will remain under that award unless they choose to enter an agreement'.

These proposed changes make a nonsense of those promises. They change what is the current award system dramatically, and they are obviously to the detriment of Australian workers. These changes also undermine the role and the powers of the Industrial Relations Commission; again this is in contradiction of the coalition's pre-election pledges. The coalition policy stated:

> . . . the AIRC will continue to settle disputes and determine wages and conditions of employment—

These changes ensure that the AIRC cannot do that.

This bill seeks to drop any requirement that employers negotiate in good faith with unions. This bill seeks to remove the right of unions to be heard in the commission's proceedings about agreements. This bill seeks to water down the 'no disadvantage' test to a number of minimum conditions—and even this will not apply if the employer pleads poverty. It is almost as though workers have to get the permission of employers to be covered by the 'no disadvantage' test.

There is no logic in the government's position in respect to these agreements beyond putting employers in a much stronger position in the negotiating process. To what purpose if not to reduce wages and conditions? Australian workplace agreements seek to allow secret, individually signed agreements to come into force without supervision from the commission. They seek to place the onus on individual workers to take legal proceedings if it turns out that they have not received their entitlements or have been forced to sign. We all understand that in this country the courts are essentially for those who can afford to pay.

With this legislation, AWAs override state awards, even if the award provides better conditions. This bill seeks to have a toothless employment advocate overseeing the process

and acting for both the employer and the worker. Here is the crux of the legislation: the government wants workers to be forced into individual contracts rather than having them covered by collective agreements or awards. This removes the basic protections that have been afforded to workers in this country since 1904.

The government seeks to remove the commission's power to make orders for equal pay in relation to over-award payments and non-cash benefits. It is seeking to ensure that unions are encouraged into smaller entities by the encouragement of the establishment of small enterprise unions. It seeks to encourage the breakup of unions through the disamalgamation and the establishment of enterprise branches.

This bill seeks to abolish the right of entry, except where the union has a written invitation from members. This bill seeks to encourage demarcation disputes so that employers can use section 111A to pick their favourite union. This bill seeks to increase the range of penalties for almost any industrial action. Again, this goes to the heart of the legislation: it appears to want to make unions ineffective and powerless to protect their members. Many of the proposed changes are nonsense. They smack of the same sort of childish political payback flavour that has seen the end of student newspapers from university campuses around Australia.

In terms of unfair dismissal, we have seen the introduction of a $50 application fee. We have seen the exclusion of all workers except those on federal awards from the jurisdiction even where the state system does not provide an adequate remedy. The legislation also requires consideration of the employer's financial position when considering whether to grant a remedy or an amount of compensation. All these measures of so-called protection of workers are measured against the capacity of the employers to pay. What sort of justice is that?

While much hot air has been expended by the political commentators on the need for changes to this area of the law, no really sound arguments have been presented. The current law requires an employer to have a good reason before dismissing someone and then to give that person a chance to respond to adverse allegations made against him or her. What is unfair about that? The campaign against the previous government's changes to this area of law has seen one of the most vitriolic and hysterical campaigns waged in industrial relations.

The government of course is seeking to radically change Australia's longstanding system of industrial relations. They are seeking to turn it on its head. This will have far reaching implications for our society if it is allowed to proceed. In a statement to the Senate committee the President of the ACTU made it very clear that the ACTU's 'opposition is based on the values which we believe are shared by most Australians and which make our country one of the fairest and most tolerant in the world'. She pointed out:

> Australia has an industrial relations system which ensures fair wages and conditions for all workers, including those who cannot use their market position to protect themselves.
>
> We have a welfare system which provides a minimum standard of living for those unable to work, whether because of age or disability or because they cannot find a job.
>
> Since Federation, this country has distinguished itself by rejecting economic strategies based on low wages, poor conditions, and the development of a permanent underclass of marginal workers.
>
> We have recognised that the riches of our land and the skills of our people are sufficient to provide all Australians with the protections of an industrial social safety net.
>
> That still is the case.

Miss George rightly asserts:

> The Bill is intended to begin the process of wage reduction for the most vulnerable and prepare for the next stage by weakening the Commission and attempting to minimise the role of unions in the industrial relations system.
>
> The next stage will require accompanying reductions in social safety net in order to ensure a supply of cheap, marginalised workers.

We have seen exactly that in the first budget brought down by this government with its attacks on the unemployed Australians—the petty and mean spirited changes to the rules which will do nothing but demoralise these people further. Miss George pointed out:

This is exactly what happened in New Zealand.

The result, as in the US and Britain, will be a pool of poor and desperate people prepared to do any kind of work for a single minimum hourly rate.

In the United States, 4.1 million Americans rely on a minimum hourly rate of $4.25—

I understand that has recently been raised—

A dual labour market emerges with the most vulnerable in precarious employment on very low wages.

It is not being far-fetched or alarmist to point out, as Miss George did before the Senate committee, that 'the sharp rise in crime, homelessness and family breakdown and drug addiction which can be seen in those countries is the inevitable result'. She is right in saying:

Australia does suffer from a number of social problems but our national commitment to a fair social security system and a fair system of labour market regulation has been essential in maintaining a relatively high level of social cohesion.

The strengths of our society are not accidental.

They are the direct result of the development of a comprehensive social safety net. The industrial relations system is at the core of that safety net.

The system of arbitrated and enforceable awards ensures that individual workers are not forced to compete with each other to offer their services at the lowest possible wage.

Of course that is not to say that we can stick with the old ways. The system has been developed over the years and under the previous Labor government substantially modernised to bring it into line with Australia's more open economy. We don't have to throw out the baby with the bath water, however. We have is a good system, one to be proud of and one that is essential to our understanding of how a decent society ought to work. How our country manages the relationship between labour and capital is a key determinant of what sort of society we produce.

The United States experience is one that I think is illustrated by the real dangers that are posed by this bill. We often hear much from conservatives in this country about the land of the free. Of course when you look at the evidence you see certainly a different impression emerge from the sorts of social conditions that exist in that country. Given that the government favours complete deregulation, it seems to me that it is worth considering the model the United States has opted in terms of its industrial relations.

It is worth looking at some details of the United States experience. Some very basic statistics highlight the sorts of problems that are emerging in what is one of the richest countries in the world. Eighteen per cent of US full-time workers live below the poverty line. The richest one per cent own 35.7 per cent of all wealth. The US has the greatest gap between rich and poor of all OECD countries. Since 1979 real earnings for workers has declined by 12 per cent. During the same period, 97 per cent of the increase in household income has gone to the richest 20 per cent of all households. During the same period, productivity increased by 24 per cent. Between 1989 and 1995 corporate profits increased by 64 per cent and executive compensation has gone up by a staggering 360 per cent since 1980.

In terms of the minimum wage in the United States, it has just been increased to $5.15 an hour. As I see it, $5.15 an hour produces an annual income of some $10,764. That of course means that some 12.5 million workers live on or just above what is regarded as a very basic poverty line. A significant number of migrant workers do not even earn that minimum rate. Eighty per cent of all households only earn 15 per cent of the household wealth and one per cent of the population has of course 39 per cent of the total wealth. The average pay of a chief executive officer in 1994 was almost $2.9 million. In 1980 the pay of one CEO was equal to that of 42 factory workers or 97 minimum wage earners. By 1994 a CEO earned as much as 109 factory workers or 325 at the minimum wage.

Under the United States system it is women and minorities that are particularly disadvantaged. For the blacks and Hispanics that is especially the case. For most in the American work force, the quality of life is actually getting worse.

In addition to pay, workers are being threatened and are fearful about their security as companies dump workers, even as the

economy booms and profits go up. Displaced workers have only one in four chance of equal or better pay after losing their job. Many end up jobless and out of the work force or in part-time jobs with reduced pay.

The hours of work are increasing. One study I saw recently estimated that the average full-time worker put in about 140 more hours annually to get the job he or she did 20 years ago. The US has one of the longest working years of all OECD countries. Many workers have two low paying jobs. More and more workers are in temporary, part-time, low paying, insecure jobs with little or no health or superannuation rights.

It is estimated that a quarter of the United States work force is in contingent work. Temporary workers increased by some 193 per cent from 1985 to 1995. Children of working class and middle America are increasingly likely to have lower standards of living than their parents. Families suffer due to the declining quality of life as a result of the falling real wages, lower job quality, less job security and less fair distribution of income.

Forty million Americans live in poverty. One in five children in America live in poverty. This is made worse by the attack on the safety net. Only 35 per cent of the unemployed receive unemployment benefits. Forty million Americans have no health insurance. That is an increase from 31 million in 1987. The recent changes in the US congressional politics suggest to me that that situation is only likely to get worse.

Corporate income taxes have accounted for only nine per cent of federal revenue in 1993. They are down from 16 per cent in 1973 and 31 per cent in 1953. The Republicans' Contract with America provides that over half the proposed tax cuts will go to taxpayers with incomes of more than $100,000 a year. That is the sort of model that is being presented to us as one we should emulate. It is one that I reject.

We are already seeing evidence that a more deregulated work environment is leading to the exploitation of vulnerable workers here in Australia, with conservative state governments messing around with industrial relations. In my own state, Jobwatch in Victoria has seen a staggering increase in job related complaints, rocketing from 189 complaints in 1994-95 to 697 in 1995-96, a 360 per cent increase.

Victorian public servants are being victimised as a result of not signing individual contracts and are consequently denied pay increases and promotion. Teachers have described the personal costs to themselves and the price paid by our children for the contract employment system used in Victorian schools. The harshest effect is the attack on the self-esteem of people who should be amongst our most valued professionals. The same pattern emerges with shop assistants on individual contracts in Victoria and in Western Australia. The same sort of message is becoming quite clear in relation to nurses.

What we have to understand is that if we do not insist upon an industrial relations framework that provides a proper balance between protecting the most vulnerable while at the same time enabling parties at the workplace to arrange their affairs as they see fit on top of a comprehensive award system then this country as a whole will be the poorer.

I would like to suggest that some of the changes in recent times, changes to equal pay cases, have shown that it is possible for us to actually see further improvements within the industrial relations system as it currently exists. The proposal to remove the IRC's powers in relation to equal remuneration under this bill will see that case reduced.

Case after case can clearly demonstrate that there is no basis for changing the existing system back, as is being proposed. This whole bill is predicated on the presumption that we should reduce wages and conditions, that we should encourage unions to fight amongst themselves and that we should attempt to discourage workers from defending their basic industrial and civil rights.

It seems to me that most of the employers that have supported these proposals are running a great risk. The decent employers, that do not support the actions of the renegade few, understand that it is important that all employers operate on a level playing field

as far as wages and conditions are concerned. If there are a few employers that go for the reduced wages and conditions model in any industry, then eventually all employers are obliged to follow that path. I think that is a measure that has to be resisted at all costs.

The proposed legislation significantly reduces fairness in the workplace. It leaves the weakest in the most vulnerable situation, it erodes established practices and values supported by this community throughout most of this century, and it will inevitably lead to a widening of income and social inequalities. This bill ought be rejected by this Senate.

**Senator TROETH** (Victoria) (11.28 p.m.)—I believe that this legislation is probably one of the most important pieces of legislation to come before the Senate, certainly in my time in the Senate. I am most interested in the comments of senators in the speeches so far. In the comments that I wish to make tonight, I would like to concentrate on some aspects of this bill, particularly those that deal with the emphasis that is given to the work of employers and employees, the effect on small business, the effect on women, and the effect on part-time workers.

Certainly, under the system of industrial relations that has existed so far there has been insufficient focus on the workplace and enterprise and not enough emphasis on the relationship between the employer and employees at the workplace level. There was not enough emphasis on fostering a system of true partnership where employers and employees can work together as a team.

The present existing awards tend to operate on a one-size-fits-all basis—that is, there is very little recognition of the different needs of different employers and different employees. In 1993 the former Prime Minister outlined his vision for an industrial relations system where the focus of awards would shift to providing a true safety net. He envisaged awards becoming simpler and over time there being fewer awards with fewer clauses. But, despite this statement, the previous government failed to deliver such a system.

The process introduced by the existing act has not produced the necessary changes to awards to make them simpler and more effective. This bill is designed to ensure that the award system provides an effective safety net of fair minimum wages and conditions, totally unlike the system that Senator Carr just described. At the same time, it maintains the focus of the overall system on agreement making at the enterprise or the workplace level. The Australian Industrial Relations Commission will be responsible for establishing and maintaining such a safety net, including arbitrating safety net adjustments taking account of the needs of low paid workers.

The opposition delights in portraying the coalition as the enemy of the workers, when in actual fact we wish to make their lot a great deal better than was ever attempted by the previous government. The mechanism for adjusting this safety net will be for the commission to determine.

Awards will be simplified. The commission's jurisdiction to include matters in awards will be limited to settling a dispute in relation to 18 allowable matters, including pay, leave and other key conditions. Other matters are obviously best determined at the enterprise or workplace level, whether in formal agreements or informally. The reason for this is that conditions vary in every workplace. Every workplace is different and, therefore, it should be left to employers and employees to work out the conditions that are going to suit them best at that local level.

The process of award simplification will be governed by the commission and it will encourage and assist parties to simplify their awards to focus on the allowable matters. Award simplification is not a device to reduce wages. The commission will also be reviewing awards to make sure that they are effective on a number of grounds such as that they operate flexibly, they do not include discriminatory provisions and they are easier to understand.

Here and elsewhere where protection against discrimination is provided for, the continued operation of junior rates of pay is specifically provided for. This is critical to protect the jobs of thousands of young people whose employment prospects would be jeopardised if junior rates of pay were abolished from awards, as Labor intended.

For a long time now we have seen the industrial relations system of this country weighted against employers so that the incentive to employ was removed from employers and, rather than put on one extra worker, 10 extra workers or 20 extra workers, they decide to work harder themselves and not employ one single person.

The proposed legislation being put forward by the coalition government is based on a fair go for all. So the system is now much more appropriately balanced and delivers benefits for both employers and employees. This legislation is not aimed at taking sides on either of the parts that I have just mentioned; instead, the clauses are aimed at providing avenues for mutual choice, mutual commitment and mutual benefit.

The objects of the new act will focus the role of awards on minimum standards and protection of the low paid, and encourage the determination of terms and conditions of employment as far as possible by agreement between employers and employees, either individually or collectively, at the enterprise or workplace level. It will provide the flexibility to enable terms and conditions of employment to be tailored to meet the mutual needs of employers and employees. It will protect freedom of choice in relation to agreement making and membership of employee and employer associations.

A key part of the proposed legislation is respecting and valuing the diversity of the work force by helping to prevent or eliminate discrimination. There is also a new emphasis on assisting employees to balance their work and family responsibilities.

One of the most important providers of employment in this country is small business. The most immediate benefit to small business in this legislation will be the lifting of the burden of the current unfair dismissal laws. The new unfair dismissal system will be more balanced and fairer to both employers and employees. It will be less costly and it will protect employers from frivolous and malicious claims.

Claims will be dealt with by the Industrial Relations Commission on a fair go, all-round basis. This will encourage increased job creation, particularly in small business, which provides around 50 per cent of all private sector business employment. Small businesses will have much greater opportunities to develop industrial arrangements best suited to their individual circumstances. It will also be simpler for small business to access and use.

In addition to continuing with any current informal over-award arrangements, small businesses will have the choice of making simple, user-friendly workplace agreements with individual employees or making collective agreements directly with employees and having those agreements certified. This is particularly relevant for small business, given that many small businesses are either non-unionised or lightly unionised.

On the other hand, small businesses that wish to remain in the award system will benefit from a simplified and more flexible award system. This will make it easier to introduce work practices that suit the needs of small business. It will protect small business from unwarranted and uninvited union interference in their operations. Unions will be able to participate in the agreement making process only if they are invited to do so by an employee. It is not true to say that unions will be excluded from the arrangements that I have just mentioned, but they will be able to enter into those only if they are invited to do so by an employee.

The freedom of association provisions will prevent employees being forced into unions against their will, and unions will be able to enter a business only if a union member who is an employee invites the union. The whole basis of this legislation is about choice. It is a choice about whether to enter into an agreement or to continue in the existing award. It is whether you want to join a union or whether you do not want to join a union. None of this is as compulsory or as draconian as the opposition would want to make out.

Small business will also have greater certainty with respect to industrial action within their business. Although there will be a right to take industrial action or to lock out employees when negotiating formal agreements under the act, industrial action may not be taken during the specified life of an agree-

ment. The Industrial Relations Commission will also be given greater powers to direct that industrial action stop or not occur. With the reinstatement of effective secondary boycott provisions, the prospect of a business being caught in the backwash of a boycott is much reduced and appropriate remedies will be available.

The Employment Advocate will provide assistance and advice to employers on the provisions of the legislation, especially to those in small business. Among other things, the Employment Advocate will publish guidelines on the drafting and content of workplace agreements and model forms of agreement that may be used by small business employers. Again, this will serve in the education of both employees and employers as to how the legislation will work. The Employment Advocate will also be available to assist with freedom of association breaches.

The act will no longer make contracts for services with independent contractors subject to the jurisdiction of a federal court. This will enable small businesses to engage independent contractors on mutually agreed terms and not have this relationship potentially subject to employment conditions set by awards.

I would also like to address the prospects that this employment sets in place for women. The opposition have continually emphasised that women will not be well served by this legislation. On the other hand, I would like to emphasise that there is no reason why women will not be better served by this legislation than they have been under the existing agreements. For some reason, the opposition seems to imagine that women are incapable or unwilling to negotiate agreements on their own behalf as to the sorts of conditions that they would like to see existing in their workplace. Why they imagine that women do not have the foresight or the knowledge to work out those conditions totally escapes me.

On the other hand, if women employees feel that they do not wish to undertake negotiations on their own behalf, they will be able to invite their union representative into the workplace to assist them in negotiating or to negotiate on their behalf. In that way, the role of unions will be emphasised. I would have thought that union representatives would see this as a great opportunity to reinforce the role they do play of assisting employees through workplace negotiations.

The government is committed to ensuring that women in the work force have fair access to the opportunities to be provided. The government has retained an anti-discrimination object in the Industrial Relations Act, and it has also added an object relating to assisting employers to balance their work and family responsibilities effectively through the development of mutually beneficial work practices with employers.

Provision has been made for protection against pay discrimination in awards or agreements on the basis of sex. Dismissal based on a range of discriminatory grounds, including discrimination based on sex and pregnancy, will continue to be unlawful. Awards will continue to set a safety net of fair minimum wages and conditions for all employees—unlike the scurrilous scaremongering that is being spread throughout the Australian community by the opposition.

After consultations, these paid rates awards—which cover many women—will be converted to a minimum rates format. This will be done in a way that protects pay entitlements in the process. Neither is the conversion of paid rates awards a vehicle for reducing non-pay entitlements. Employees will have a range of statutory protections when they choose to enter into agreements with their employers. Again, the Employment Advocate will pay particular attention to providing support for young people, women and people from a non-English speaking background.

A strong emphasis is placed on the development of work practices which allow for a better balancing of work and family responsibilities. Restrictions on regular part-time employment will be removed, offering up new opportunities for flexible working matters which meet this objective.

The last matter I would like to address is that of the opportunity for this legislation to increase opportunities for part-time work. Both men and women in the 1990s prefer, it seems in many cases, to provide a mixture of

caring for their children. That may be through one or both parents being at home, and one or both parents staggering their work opportunities so that both of them can help to look after their children and take a full and participatory role in family life.

The new workplace relations act will ensure that employees have access to part-time work on a regular basis with pro rata benefits. This is something that casual work, which is available at the moment, often does not provide. This will allow employers and employees at the workplaces and enterprises to agree to regular part-time arrangements.

So, instead of an employee having a maximum of, say, 25 hours casual work per week and never knowing when that is and being unable to juggle their work and family responsibilities on a regular basis with any element of certainty, regular part-time arrangements can be worked out. They would then know that they were working one, two or three afternoons a week and could arrange their work and family schedule accordingly.

This legislation will remove award restrictions on regular part-time employment. It will include the removal of quotas on regular part-time work and minimum and maximum hours for regular part-time work.

Many unions have opposed the introduction of permanent part-time work and others have included restrictions. This has been designed primarily to protect the interests of full-time workers. At a time when many family members are looking to make the hours of their attendance at the workplace different so that they can look after their children or have other activities which prevent their working full time, the move to permanent part-time work is something that Australian business should be contemplating seriously.

Because of the restrictions to which I referred, workers who would have preferred permanent part-time employment are therefore forced to remain in full-time work, to accept casual employment or to remain outside the paid work force because they cannot get the work they want at the hours they want. Regular part-time work has a number of advantages over casual work, especially for workers with family responsibilities. At the same time, they will be able to have pro rata benefits such as sick leave, superannuation and other benefits that come with full time employment. These provisions will increase the opportunities for employees to work less than full-time hours while having predictable work hours, greater job security and access to the conditions enjoyed by other permanent employees on a pro rata basis.

Therefore, I see this legislation as providing a tremendous opportunity for any government to change the industrial relations landscape of the employment scene and to provide opportunities to employers in a way that will expand the horizons of employment to a tremendous extent, enable Australian business to operate at full capacity and, hopefully, put Australia on the map so that our exports can enable us to make a very good mark in the world of exports, which we need to survive on the international trade scene.

**Senator CHAPMAN** (South Australia) (11.48 p.m.)—A few moments ago we heard some remarks from Senator Margetts in relation to this legislation and I note that she accused the government of blaming the worker for lack of flexibility in the workplace. Let me assure her that we have done no such thing. There certainly is a degree of blameworthiness for lack of flexibility in the workplace but that blameworthiness can be sheeted home directly and wholly to the failure of the previous Labor government to free up the industrial relations situation in this country and, indeed, to provide workable legislation that would allow for the necessary flexibility in the workplace.

Let us have none of this nonsense, this straw man put up by members of the opposition, including Senator Margetts, that somehow the government is attacking the worker in relation to flexibility in the workplace. We are doing no such thing. In fact, as I have said, the fault for the lack of flexibility lies fairly and squarely with the previous Labor government, informed by, no doubt, and doing the bidding of, the trade union movement.

Let me say that wage increases without improved productivity are indeed fools gold. In the economy overall, such wage increases

without productivity mean higher inflation and eventually higher unemployment. At the individual business enterprise level, this makes the business owner and the employee both worse off. The business loses profits or market share. The employee soon has less purchasing power as inflation eats up the value of that wage increase and also forces him or her into higher tax brackets, leaving a smaller real share of their income in their own pockets. Of course, worst of all, some employees lose their jobs.

It was this recognition that initially sparked my keen interest in industrial relations while representing the electorate of Kingston in the other place. As a young member for Kingston, I had taken a keen interest in youth affairs and youth issues, and particularly youth employment matters. Over several years of interest in those issues, it became quite clear to me that the greatest enemy of youth employment and, indeed, of employment growth generally, was our archaic industrial relations system. As a consequence of that, I was the first Liberal parliamentarian to advocate a less regulated, more market oriented, more co-operative industrial relations system in my 1981 speech on the budget.

It is certainly of great credit to Prime Minister Howard that, in the early years of opposition after the 1983 loss of government by the Liberal and National parties, he took up this cause and, with others, developed and refined into the policy successfully presented at the 1996 election, and now translated into this workplace relations bill, a very important reform of industrial relations. On my return to parliament as a member of this chamber in 1987, in my second maiden speech—my maiden speech in this chamber—I spoke at some length on the need for industrial relations reform.

At that time, I noted that, of all the reforms which the then Labor government had claimed to introduce in its four or so years in office—reforms of the financial markets, reforms with regard to trade and industry and protection issues—it had singularly failed to introduce reform of industrial relations.

Of course, its view and its legislative approach to industrial relations at that time were largely informed by two inquiries that were undertaken in the early years of the Labor government. The first of those was the Hancock committee of review into Australian industrial relations law and systems and subsequently there was a document called *Australia reconstructed*. It was those two documents which, as I say, largely formed the legislative approach of the previous Labor government to industrial relations.

It was Professor Richard Blandy who described the Hancock report as 'the last hurrah of the past, rather than a blueprint for the future' as far as industrial relations were concerned. That is a true statement. That is why we have a lack of flexibility and all the other problems that are associated with our current industrial relations structure, because it was, indeed, based on past history. It was based on the experiences of the 19th century and it kept our industrial relations structure based on those experiences and on those attitudes rather than recognising the changed attitudes and the changed needs that had occurred in the latter part of this 20th century—reforms which were absolutely essential to take us into the 21st century.

As I said, we also had *Australia reconstructed*, a document which was a major part of the work which was largely undertaken by that unreconstructed old left-winger, Ted Wilshire. Again we saw industrial relations recommendations based on past history rather than on future needs. Certainly that was a criticism that was justified at that time back in 1987, and it continued to be justified by the Labor government's approach to industrial relations right up until its defeat earlier this year.

Over the past nine years I have greatly valued the opportunity of assisting several shadow ministers for industrial relations—including the then Senator Chaney, Mr Howard and, more recently, Mr Reith—in developing the reform proposals of the Liberal and National parties for industrial relations. This included a period as chairman of our party's industrial relations committee between 1990 and 1993. That is why it is with particular pleasure that I welcome the introduction of

this legislation to the Senate and urge its speedy passage.

This legislation deals with the issue that I raised at the outset of my remarks—that is, the issue of wage increases being related to productivity. This legislation is about providing flexibility in the work force to enable improvements in productivity to be achieved. This legislation is not about reducing wages, as the opposition parties would have us falsely believe and which they and their union supporters propagandise throughout this country. This legislation is about allowing employers and employees flexibility to remove the impediments to improved productivity. Of course, the worst examples of those impediments continue to be on our waterfront. Despite millions of dollars of taxpayers' and also shippers' money provided for golden handshakes and a supposed reform process over some years, the rorts on our waterfront remain and the unacceptable levels of productivity on our waterfront remain.

The first requirement which this legislation will allow to happen is a much more readily accessible improved productivity. That improved productivity will in turn provide the springboard to increased wages and increased profits. It will allow a fair sharing of that improved productivity and profit between employees and business owners—a fair sharing of the spoils of better productivity. Under the legislation that sharing of the spoils can occur for employees not just through increased wages but through the opportunities this legislation will provide for innovative, beneficial remuneration packages, including such things as profit sharing and employee share ownership.

This approach will enhance recognition on the part of both business managers and employees of their mutual interests in the success of a particular business enterprise. It will mean an end to that outdated 19th century 'us and them' mentality and provide the basis for an industrial relations system suited to the demands and the needs of the 21st century. It is undoubtedly the case that this is the reason Labor is opposing this bill. A system allowing the recognition of the mutual interests of everyone involved in a particular business enterprise reduces the relevance and, indeed, the power, of trade unions. Trade unions are the Labor Party's power base and, indeed, their masters.

There is no doubt that, when some senators opposite were in government, they recognised the need to free up our outdated industrial relations system and structure. As I said earlier, they certainly recognised and acted on the need to free up trade, free up our financial system and more but, when it came to industrial relations, they failed to act because their union masters forbade it. That is why industrial relations reform stalled under Labor. Reform through passage of this legislation has become ever more urgent because it has been delayed for so long that this reform is the most urgent of all reforms required in Australia today.

The legislation before us is underpinned by the four simple principles on which the coalition government's industrial relations policy is based. Those principles are: freedom of choice, freedom of association, the principle that all Australians must be treated equally before the law, and the principle of equal protection for individuals. It implements faithfully the details of that election policy. It devolves responsibility for workplace relations where it belongs at the individual workplace rather than maintaining that responsibility in a centralised structure of peak bodies remote from and irrelevant to local working circumstances. It will therefore assist in bringing to an end the 'us and them' mentality which was an inevitable consequence of a centralised adversarial system. It will foster a recognition of shared interests between the owners and employees of individual business enterprises.

In spite of this, the opposition would have us believe that the proposed legislation will, to quote Mr McMullan on 30 May this year, 'mark the end of a cooperative era of industrial relations'. This is theatrical nonsense designed to cause panic in the community. The Labor Party still seems determined to portray employers as bogeymen who want to return the work force and workplace relations to pre-industrial revolution conditions. Rather

than an end to a cooperative era, this legislation provides the basis for a new era of cooperation.

**Wednesday, 9 October 1996**

## ADJOURNMENT

**The PRESIDENT**—Order! It being 12 midnight, pursuant to order I propose the question:

That the Senate do now adjourn.

### Port Hinchinbrook Development Project

**Senator HILL** (South Australia—Minister for the Environment) (12 midnight)—Firstly, I seek leave to table a statement of reasons for my decision made on 12 August 1996 under paragraph 3.1.1B of the administrative procedures approved under section 6 of the Environmental Protection (Impact of Proposals) Act 1974 that neither an environmental impact statement nor a public environment report was required in relation to the proposed entry by the Commonwealth into a deed of variation relating to a proposed development at Oyster Point, Queensland.

**The PRESIDENT**—Leave is not required, Senator. You are speaking on the adjournment and you have the right to table the documents that you are seeking to table as a minister.

**Senator HILL**—Thank you. I table that. I also table a statement of reasons for my decisions under sections 9(1), 10(2), 10(3) and 10(4) of the World Heritage Properties Conservation Act 1983, that consent be given for Cardwell Properties Pty Ltd to implement a revised beach and foreshore management plan and to dredge a marina access channel at Oyster Point, Queensland. I table that.

**Senator Chris Evans**—On a point of order, Madam President: I thought Senator Hill was speaking on the adjournment and now he seems to be seeking to table or make some sort of presentation of documents in his capacity as a minister. I query whether he is actually speaking to the adjournment or whether he is seeking to present documents as a minister of the Crown.

**The PRESIDENT**—He is speaking on the adjournment. He is a minister and is entitled to table documents.

**Senator HILL**—Thirdly, Madam President, I table documents in accordance with the resolution of the Senate dated 12 September 1996 in relation to Hinchinbrook. The volume is enormous, as you will notice.

**Senator Chris Evans**—On a point of order, Madam President: I accept what you said about what the minister could do and I have no query with that. My question is whether he is doing that or whether he is seeking to table documents as a minister arising from a separate incident. He has now informed us that he is tabling documents in accordance with resolutions of the Senate, that he is responding to Senate instructions.

**The PRESIDENT**—The Senate is still sitting and he is entitled to do it. The Senate has not yet adjourned.

**Senator Chris Evans**—I understand that. I was not querying that fact. I knew we were still here.

**Senator O'Chee**—He can do it any time he wants.

**Senator Chris Evans**—Thank you, Senator O'Chee. I am just raising whether or not it is appropriate for a minister to be tabling documents at this time rather than at the time set down in the red each day.

**The PRESIDENT**—It is not for me to challenge when the minister does it. He does not need leave to do what he is doing at the present time.

**Senator HILL**—As I was just saying, the volume is enormous. I have had neither the time nor the resources to provide an index. I do not even claim to have exhaustively met the order. Given the number of agencies concerned and the volume of documents, it would be impossible to do so. In fact, I am still progressing the matter. I have not included legal advices, correspondence between colleagues, e-mails—I am told that to produce a full list of e-mails would cost a further $40,000—or internal memos and drafts. I have tried to use FOI principles as a guide, as was the practice of my predecessor.

I remind the Senate that this material adds to the key documents, which somebody else added up to some 2,000 pages, which I tabled

in the Senate before the order to which I am now responding was previously made.

### Tabling of Documents

**Senator CARR** (Victoria) (12.05 a.m.)—Can I suggest that Senator Hill's actions tonight have taken us somewhat by surprise. I would have thought, given that the opposition has provided the government with considerable cooperation in terms of extending the sitting hours tonight, we could have been advised of the minister's intentions to act in the way he has. I do not dispute his capacity to table documents by leave and to speak on the adjournment, but I draw to the minister's attention the fact that we have provided considerable cooperation tonight and this is not the way we would expect him to behave in terms of at least advising us of his intention to act in this manner.

### Senate adjourned at 12.05 a.m. (Wednesday)

## DOCUMENTS

### Tabling

The following documents were tabled pursuant to sessional order agreed to on 18 August 1993.

Australian Science and Technology Council Act—Australian Science and Technology Council—Report for 1995-96.

Department of Defence—Special purpose flights—Schedule for the period 1 January to 30 June 1996.

Department of Foreign Affairs and Trade—The Australian government's international human rights policy and activities for the period 1 January 1994 to 31 December 1995.

Economic Planning Advisory Commission Act—Economic Planning Advisory Commission—Report for 1995-96.

Equal Employment Opportunity (Commonwealth Authorities) Act—Equal employment opportunity program—Australian Film, Television and Radio School—Report for 1995-96.

Industry Commission Act—Industry Commission—Report—Packaging and labelling, 14 February 1996 (No. 49).

Law Reform Commission Act—Law Reform Commission—Report—Legal risk in international transactions (No. 80).

Immigration Review Tribunal—Report for 1995-96.

Primary Industry Councils Act—Australian Pig Industry Council—Report for 1995-96.

Treaty—Multilateral—Text together with national interest analysis—Agreement for the Establishment of the Indian Ocean Tuna Commission, done at Rome on 25 November 1993.

The following document was tabled pursuant to the order of the Senate of 30 May 1996:

Indexed lists of departmental and agency files for the period 1 January to 30 June 1996—Department of Social Security.

The following documents were tabled by the Clerk:

Admiralty Act—Rules—Statutory Rules 1996 No. 215.

Agricultural and Veterinary Chemicals Code Act—Regulations—Statutory Rules 1996 No. 216.

Air Navigation Act—Regulations—Statutory Rules 1996 No. 209.

Australian Wool Research and Promotion Organisation Act—Regulations—Statutory Rules 1996 No. 217.

Child Care Act—Childcare Assistance (Fee Relief) Guidelines (Variation)—CCA/12A/96/2.

Christmas Island Act—

Casino Control Ordinance—Reappointment of members of the Casino Surveillance Authority, dated 16 September 1996.

Ordinance—No. 7 of 1996 (Lotteries Commission Act 1990 (W.A.) (C.I.) (Amendment) Ordinance 1996).

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—

Directive—Part—

105, dated 9[3], 11[3], 13[3], 16[2], 18, 19 and 20[2] September 1996.

107, dated 13[2] and 16[2] September 1996.

Exemptions—174/FRS/186/1996, 175/FRS/187/1996, 176/FRS/188/1996, 177/FRS/189/1996, 178/FRS/190/1996, 179/FRS/191/1996, 180/FRS/192/1996 and 181/FRS/193/1996.

Instruments—CASA 990/96 and CASA 991/96.

Corporations Act—Regulations—Statutory Rules 1996 Nos 205 and 218.

Currency Act—Currency Determination No. 3 of 1996.

Customs Act—Instrument of Approval Nos 2-5 of 1996

Defence Act—

Defence Force Remuneration Tribunal—Determination No. 19 of 1996.

Determination under section 58B—Defence Determinations 1996/27-1996/29 and 1996/32-1996/36.

Evidence Act—Regulations—Statutory Rules 1996 No. 202.

Export Control Act—Regulations—Statutory Rules 1996 Nos 206 and 207.

Family Law Act—Regulations—Statutory Rules 1996 No. 201.

Housing Assistance Act—Determinations—HAA 1/96 and HAA 2/96.

Lands Acquisition Act—Statement describing property acquired by agreement under section 40 of the Act for specified public purposes.

Life Insurance Act—Insurance and Superannuation Commissioner's Rules made under section 252—Commissioner's Rules—

No. 21—Financial statements.

No. 22—Non-participating benefits.

No. 23—Reinsurance reports.

No. 24—Reinsurance contracts needing approval.

National Health Act—Determination—

1996-97/ACC1.

PHI 14/1996.

Navigation Act—Marine Orders—Orders Nos 1 and 2 of 1996.

Passports Act—Regulations—Statutory Rules 1996 No. 210.

Proceeds of Crime Act—Regulations—Statutory Rules 1996 No. 203.

Public Service Act—Determination—

Locally Engaged Staff Determinations 1996/21 and 1996/26.

Public Service Determinations 1996/154, 1996/162, 1996/163, 1996/165-1996/175, 1996/178-1996/180, 1996/182 and 1996/184-1996/186.

Radiocommunications Act—

Radiocommunications Class Licence (Radio-controlled Models).

Radiocommunications (Low Interference Potential Devices) Class Licence No. 1 of 1993 (Variation No. 1).

Superannuation Act 1976—

Determination—Superannuation (CSS) Period Determination No. 13.

Regulations—Statutory Rules 1996 No. 204.

Superannuation Guarantee Determination SGD 96/2.

Sydney Airport Curfew Act—Dispensation granted under 0section 20—Dispensation No. 4/96.

Taxation Determinations TD 96/37-TD 96/41.

Taxation Ruling TR 92/12 (Addendum).

Therapeutic Goods Act—Regulations—Statutory Rules 1996 No. 208.

## QUESTIONS ON NOTICE

The following answers to questions were circulated:

### Australian Taxation Office: Regional Offices

**(Question No. 146)**

**Senator Sherry** asked the Assistant Treasurer representing the Treasurer, upon notice, on 17 July 1996:

(1) Which regional tax offices are scheduled to be closed in the next 12 months.

(2) How many staff will be made redundant from these closures.

(3) What will be the impact upon the ability of individuals and business in these rural and regional areas to have access to the Australian Taxation Office advice.

**Senator Short**—The answer to the honourable senator's question is as follows:

(1) Regional Taxation Offices located in Elizabeth, Mt Gambier, Warrnambool, Horsham, Ballarat, Bendigo, Lismore, Orange, Tamworth, Toowoomba, Mackay, Rockhampton and Cairns closed on Thursday 15 August 1996. Offices in Launceston and Wagga Wagga closed in the last few weeks. The Launceston premises, along with some staff has become part of a retirement centre initiative with the Department of Social Security and Department of Veterans Affairs, Wagga Wagga closed due to the expiry of the lease.

(2) Seventy staff have been offered voluntary redundancy packages after declining offers of transfer to other Australian Taxation Office (ATO) branches, 36 are transferring to other ATO locations, 10 have been redeployed to other Commonwealth agencies and the remaining seven have been declared excess and efforts are being made to place them.

(3) The Commissioner of Taxation has appointed a Community Liaison Officer (CLO) for each of the closing offices, to manage the transition to Branch Office service arrangements. The CLO will also ensure that the public are informed, through the media, of the new arrangements due to the office closures.

Individuals and business in the affected areas will not be adversely affected by the decision. Payments can be made through any of over 4000 Australia Post offices or by cheque to a regional Mail Payment Centre. Access to advice on all tax matters is available for the cost of a local call through the Australia wide 1300 networks and enquiries can be handled by any Branch office. Tax returns can be lodged electronically through Tax Agents and Australia Post. Branch Offices will also organise visits to regional centres to provide assistance and information.

The ATO is also piloting "one-stop-shop" facilities to provide service and advice to small business in rural and regional Australia in locations where regional offices are closing. This service will be integrated into the broader delivery of support to small business through provision of information, access to counselling, referrals, government assistance and introductions to a range of programs, support and training.

In setting up these centres the ATO will work with State Government Small Business offices or similar organisations. In Ballarat, Bendigo, Cairns and Tamworth, each location will have two full time officers for the duration of the pilot while the other locations will have an ATO officer present one day per week.

### Logging and Woodchipping

**(Question No. 178)**

**Senator Denman** asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 21 August 1996:

What individuals and organisations consulted with the minister or his office between March 1996 and June 1996 as part of the process of formulating the transitional woodchip export licensing system announced on 11 July 1996.

**Senator Parer**—The Minister for Primary Industries and Energy has provided the following answer to the honourable senator's question:

The Minister and his office held discussions with a broad range of individuals and organisations.

### Logging and Woodchipping

**(Question No. 179)**

**Senator Denman** asked the Minister representing the Minister for Primary Industries and Energy, upon notice, on 21 August 1996:

(1) Were any parliamentary secretaries appointed to assist the Minister with the formulation of the new transitional woodchip export licensing system.

(2) Since March 1996, on what day or days, if any, was the issue of the transitional woodchip export licensing system discussed in Cabinet.

(3) Which members and senators lobbied the Minister for his office during the process of formulating the transitional woodchip export licensing system.

**Senator Parer**—The Minister for Primary Industries and Energy has provided the following answer to the honourable senator's question:

(1) No.

(2) Cabinet discussions are held in Cabinet confidentiality.

(3) The Minister and his office were lobbied by Members and Senators from both Government and the Opposition.

## Rain Repellent

### (Question No. 180)

**Senator Brown** asked the Minister for the Environment, upon notice, on 22 August 1996:

(1) Why is an exemption from the Ozone Protection Act 1989 required for Ansett to import 'Rainboe' repellent.

(2) Who makes 'Rainboe' repellent and where is it made.

(3) What are the repellent's effects on the environment.

(4) What alternatives does Ansett have.

(5)(a) Who else has imported 'Rainboe'; (b) in what quantities; and (c) when.

**Senator Hill**—The answer to the honourable senator's question is as follows:

(1) Ansett Australia applied for a once off exemption under the Ozone Protection Act 1989 (the Act) to import 80,500g canisters of 'Rainboe' rain repellent in 1996.

'Rainboe' rain repellent is a product containing a chemical water repellent suspended in CFC-113 in a pressurised canister. It is used to enhance the vision of pilots when landing aircraft in very heavy rain, such as that experienced during the monsoon in northern Australia. The canister fits into a windscreen spray unit on jet aircraft.

Approximately 50 per cent of airlines using Boeing aircraft around the world have indicated that they wished to continue the use of 'Rainboe' rain repellent pending the approval of an alternative system. The US Department of Transport has issued Boeing with an exemption to enable continued shipments of 'Rainboe' to aircraft operators outside the USA.

Section 38 of the Ozone Protection Act 1989 (the Act) bans the importation and manufacture of certain products which contain ozone depleting substances. The current list of products includes: dry cleaning machinery; automotive air conditioning maintenance kits; disposable containers of refrigerant; extruded polystyrene packaging and insulation; aerosol products; products containing halon; rigid polyurethane foam products; moulded polyurethane foam; and refrigeration and air conditioning equipment. 'Rainboe' is not a typical aerosol product in that it requires installation into a spray unit to operate.

Section 40 of the Act provides that the Minister for the Environment may grant an exemption if the product is essential for medical, veterinary, defence or public safety purposes; and no practical alternative exists. In this case, I granted an exemption for the import of 'Rainboe' rain repellent on public safety grounds and because no practical alternative to the use of this product is available in Australia for existing aircraft.

(2) 'Rainboe' was manufactured in the USA by Sprayon Products, a division of the Sherwin-Williams Company and is a registered trade mark of Boeing. 'Rainboe' rain repellent, was formerly fitted routinely to most jet aircraft by manufacturers such as Boeing and Airbus.

(3) 'Rainboe' contains 95 per cent CFC-113, which is an ozone depleting substance with an ozone depletion potential of 0.8.

(4) Research by both Airbus and Boeing to develop an alternative solvent for the water repellent has been unsuccessful to date. While alternative hydrophobic coatings are currently being applied to the windshields of new aircraft, application of such coatings to the windshields of existing aircraft is still being trialed.

(5) Qantas and other operators of Boeing and Airbus jet passenger aircraft have imported 'Rainboe' in previous years. Information on quantities imported is not available.