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SITTING DAYS—2005

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- **GOLD COAST**: 95.7 FM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 747 AM
- **NORTHERN TASMANIA**: 92.5 FM
- **DARWIN**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—FOURTH PERIOD

Governor-General
His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Commander of the Royal Victorian Order, Military Cross

House of Representatives Officeholders
Speaker—The Hon. David Peter Maxwell Hawker MP
Deputy Speaker—The Hon. Ian Raymond Causley MP
Second Deputy Speaker—Mr Henry Alfred Jenkins MP

Members of the Speaker’s Panel—The Hon. Dick Godfrey Harry Adams, Mr Robert Charles Baldwin, the Hon. Bronwyn Kathleen Bishop, Mr Michael John Hatton, Mr Peter John Lindsay, Mr Robert Francis McMullan, Mr Harry Vernon Quick, the Hon. Bruce Craig Scott, the Hon. Alexander Michael Somlyay, Mr Kim William Wilkie

Leader of the House—The Hon. Anthony John Abbott MP
Deputy Leader of the House—The Hon. Peter John McGauran MP
Manager of Opposition Business—Ms Julia Eileen Gillard MP
Deputy Manager of Opposition Business—Mr Anthony Norman Albanese MP

Party Leaders and Whips
Liberal Party of Australia
Leader—The Hon. John Winston Howard MP
Deputy Leader—The Hon. Peter Howard Costello MP
Chief Government Whip—Mr Kerry Joseph Bartlett MP
Government Whips—Mrs Joanna Gash MP and Mr Fergus Stewart McArthur MP

The Nationals
Leader—The Hon. Mark Anthony James Vaile MP
Deputy Leader—The Hon. Warren Errol Truss MP
Chief Whip—Mr John Alexander Forrest MP
Whip—Mr Paul Christopher Neville MP

Australian Labor Party
Leader—The Hon. Kim Christian Beazley MP
Deputy Leader—Ms Jennifer Louise Macklin MP
Chief Opposition Whip—The Hon. Leo Roger Spurway Price MP
Opposition Whips—Mr Michael David Danby MP and Ms Jill Griffiths Hall MP

Printed by authority of the House of Representatives
## Members of the House of Representatives

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<td>LP</td>
</tr>
<tr>
<td>Washer, Malcolm James</td>
<td>Moore, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Wilkie, Kim William</td>
<td>Swan, WA</td>
<td>ALP</td>
</tr>
<tr>
<td>Windsor, Antony Harold Curties</td>
<td>New England, NSW</td>
<td>Ind</td>
</tr>
<tr>
<td>Wood, Jason Peter</td>
<td>La Trobe, VIC</td>
<td>LP</td>
</tr>
</tbody>
</table>

**PARTY ABBREVIATIONS**

ALP—Australian Labor Party; LP—Liberal Party of Australia; Nats—The Nationals; Ind—Independent; CLP—Country Liberal Party; AG—Australian Greens

### Heads of Parliamentary Departments

- Clerk of the Senate—H Evans
- Clerk of the House of Representatives—I C Harris
- Secretary, Department of Parliamentary Services—H R Penfold QC
**HOWARD MINISTRY**

<table>
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<th>Minister Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prime Minister</td>
<td>The Hon. John Winston Howard MP</td>
</tr>
<tr>
<td>Minister for Trade and Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile MP</td>
</tr>
<tr>
<td>Treasurer</td>
<td>The Hon. Peter Howard Costello MP</td>
</tr>
<tr>
<td>Minister for Transport and Regional Services</td>
<td>The Hon. Warren Errol Truss MP</td>
</tr>
<tr>
<td>Minister for Defence and Leader of the Govern-</td>
<td>Senator the Hon. Robert Murray Hill</td>
</tr>
<tr>
<td>ment in the Senate</td>
<td></td>
</tr>
<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer MP</td>
</tr>
<tr>
<td>Minister for Health and Ageing and Leader of</td>
<td>The Hon. Anthony John Abbott MP</td>
</tr>
<tr>
<td>the House</td>
<td></td>
</tr>
<tr>
<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
</tr>
<tr>
<td>Minister for Finance and Administration, Deputy</td>
<td>Senator the Hon. Nicholas Hugh Minchin</td>
</tr>
<tr>
<td>Leader of the Government in the Senate and</td>
<td></td>
</tr>
<tr>
<td>Vice-President of the Executive Council</td>
<td></td>
</tr>
<tr>
<td>Minister for Agriculture, Fisheries and Forestry</td>
<td>The Hon. Peter John McGauran MP</td>
</tr>
<tr>
<td>and Deputy Leader of the House</td>
<td></td>
</tr>
<tr>
<td>Minister for Immigration and Multicultural and</td>
<td>Senator the Hon. Amanda Eloise Vanstone</td>
</tr>
<tr>
<td>Indigenous Affairs and Minister Assisting the</td>
<td></td>
</tr>
<tr>
<td>Prime Minister for Indigenous Affairs</td>
<td>The Hon. Dr Brendan John Nelson MP</td>
</tr>
<tr>
<td>Minister for Education, Science and Training</td>
<td>Senator the Hon. Kay Christine Lesley Patterson</td>
</tr>
<tr>
<td>Minister for Family and Community Services and</td>
<td></td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for</td>
<td></td>
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<tr>
<td>Women’s Issues</td>
<td></td>
</tr>
<tr>
<td>Minister for Industry, Tourism and Resources</td>
<td>The Hon. Ian Elgin Macfarlane MP</td>
</tr>
<tr>
<td>Minister for Employment and Workplace Rela-</td>
<td>The Hon. Kevin James Andrews MP</td>
</tr>
<tr>
<td>tions and Minister Assisting the Prime Minister</td>
<td></td>
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<tr>
<td>for the Public Service</td>
<td></td>
</tr>
<tr>
<td>Minister for Communications, Information Tech-</td>
<td>Senator the Hon. Helen Lloyd Coonan</td>
</tr>
<tr>
<td>nology and the Arts</td>
<td></td>
</tr>
<tr>
<td>Minister for the Environment and Heritage</td>
<td>Senator the Hon. Ian Gordon Campbell</td>
</tr>
</tbody>
</table>

*(The above ministers constitute the cabinet)*
**HOWARD MINISTRY—continued**

<table>
<thead>
<tr>
<th>Position</th>
<th>Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minister for Justice and Customs and Manager of Government Business in the Senate</td>
<td>Senator the Hon. Christopher Martin Ellison</td>
</tr>
<tr>
<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Ian Douglas Macdonald</td>
</tr>
<tr>
<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
</tr>
<tr>
<td>Minister for Human Services</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
</tr>
<tr>
<td>Minister for Citizenship and Multicultural Affairs</td>
<td>The Hon. John Kenneth Cobb MP</td>
</tr>
<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
</tr>
<tr>
<td>Special Minister of State</td>
<td>Senator the Hon. Eric Abetz</td>
</tr>
<tr>
<td>Minister for Vocational and Technical Education and Minister Assisting the Prime Minister</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
</tr>
<tr>
<td>Minister for Ageing</td>
<td>The Hon. Julie Isabel Bishop MP</td>
</tr>
<tr>
<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
</tr>
<tr>
<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
</tr>
<tr>
<td>Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence</td>
<td>The Hon. De-Anne Margaret Kelly MP</td>
</tr>
<tr>
<td>Minister for Workforce Participation</td>
<td>The Hon. Peter Craig Dutton MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Industry, Tourism and Resources</td>
<td>The Hon. Warren George Entsch MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Health and Ageing</td>
<td>The Hon. Christopher Maurice Pyne MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon. Teresa Gambaro MP</td>
</tr>
<tr>
<td>Parliamentary Secretary (Trade)</td>
<td>Senator the Hon. John Alexander Lindsay MacDonald</td>
</tr>
<tr>
<td>Parliamentary Secretary (Foreign Affairs) and Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs</td>
<td>The Hon. Bruce Fredrick Billson MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon. Gary Roy Nairn MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon. Christopher John Pearce MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
<td>The Hon. Gregory Andrew Hunt MP</td>
</tr>
<tr>
<td>Parliamentary Secretary (Children and Youth Affairs)</td>
<td>The Hon. Sussan Penelope Ley MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Education, Science and Training</td>
<td>The Hon. Patrick Francis Farmer MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry</td>
<td>Senator the Hon. Richard Mansell Colbeck</td>
</tr>
</tbody>
</table>
SHADOW MINISTRY

Leader of the Opposition
The Hon. Kim Christian Beazley MP

Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research
Jennifer Louise Macklin MP

Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services
Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology
Senator Stephen Michael Conroy

Shadow Minister for Health and Manager of Opposition Business in the House
Julia Eileen Gillard MP

Shadow Treasurer
Wayne Maxwell Swan MP

Shadow Attorney-General
Nicola Louise Roxon MP

Shadow Minister for Industry, Infrastructure and Industrial Relations
Stephen Francis Smith MP

Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security
Kevin Michael Rudd MP

Shadow Minister for Defence
Robert Bruce McClelland MP

Shadow Minister for Regional Development
The Hon. Simon Findlay Crean MP

Shadow Minister for Primary Industries, Resources, Forestry and Tourism
Martin John Ferguson MP

Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House
Anthony Norman Albanese MP

Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories
Senator Kim John Carr

Shadow Minister for Public Accountability and Shadow Minister for Human Services
Kelvin John Thomson MP

Shadow Minister for Finance
Lindsay James Tanner MP

Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services
Senator the Hon. Nicholas John Sherry

Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women
Tanya Joan Plibersek MP

Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility
Senator Penelope Ying Yen Wong

(The above are shadow cabinet ministers)
<table>
<thead>
<tr>
<th>Shadow Ministry Role</th>
<th>MP Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shadow Minister for Consumer Affairs and</td>
<td>Laurie Donald Thomas Ferguson MP</td>
</tr>
<tr>
<td>Shadow Minister for Population Health and</td>
<td></td>
</tr>
<tr>
<td>Health Regulation</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Agriculture and Fisheries</td>
<td>Gavan Michael O’Connor MP</td>
</tr>
<tr>
<td>Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow Minister for</td>
<td>Joel Andrew Fitzgibbon MP</td>
</tr>
<tr>
<td>Small Business and Competition</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Transport</td>
<td>Senator Kerry Williams Kelso O’Brien</td>
</tr>
<tr>
<td>Shadow Minister for Sport and Recreation</td>
<td>Senator Kate Alexandra Lundy</td>
</tr>
<tr>
<td>Shadow Minister for Homeland Security and Shadow Minister for Aviation and Transport</td>
<td>The Hon. Archibald Ronald Bevis MP</td>
</tr>
<tr>
<td>Security</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Veterans’ Affairs and Shadow Special Minister of State</td>
<td>Alan Peter Griffin MP</td>
</tr>
<tr>
<td>Shadow Minister for Defence Industry, Procurement and Personnel</td>
<td>Senator Thomas Mark Bishop</td>
</tr>
<tr>
<td>Shadow Minister for Immigration</td>
<td>Anthony Stephen Burke MP</td>
</tr>
<tr>
<td>Shadow Minister for Aged Care, Disabilities and Carers</td>
<td>Senator Jan Elizabeth McLucas</td>
</tr>
<tr>
<td>Shadow Minister for Justice and Customs and Manager of Opposition Business in the</td>
<td>Senator Joseph William Ludwig</td>
</tr>
<tr>
<td>Senate</td>
<td></td>
</tr>
<tr>
<td>Shadow Minister for Overseas Aid and Pacific Island Affairs</td>
<td>Robert Charles Grant Sercombe MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Reconciliation and the Arts</td>
<td>Peter Robert Garrett MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
<td>John Paul Murphy MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Defence and Veterans’ Affairs</td>
<td>The Hon. Graham John Edwards MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Education</td>
<td>Kirsten Fiona Livermore MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Environment and Heritage</td>
<td>Jennie George MP</td>
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<tr>
<td>Shadow Parliamentary Secretary for Industry, Infrastructure and Industrial Relations</td>
<td>Bernard Fernando Ripoll MP</td>
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<tr>
<td>Shadow Parliamentary Secretary for Immigration</td>
<td>Ann Kathleen Corcoran MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Treasury</td>
<td>Catherine Fiona King MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Science and Water</td>
<td>Senator Ursula Mary Stephens</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Northern Australia and Indigenous Affairs</td>
<td>The Hon. Warren Edward Snowdon MP</td>
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The SPEAKER (Hon. David Hawker) took the chair at 9.00 am and read prayers.

WORK CHOICES LEGISLATION

Mr ABBOTT (Warringah—Leader of the House) (9.01 am)—I move:

That, in relation to proceedings on the Workplace Relations Amendment (Work Choices) Bill 2005, so much of the standing and sessional orders be suspended to enable:

1. the order of the day relating to the bill to be called on immediately; and
2. a Minister to sum up the second reading debate without delay and thereafter the following occurring:
   a. the immediate question before the House to be put, then any question or questions necessary to complete the second reading stage of the Bill to be put;
   b. the Bill then to be taken as a whole during consideration in detail for a period not exceeding 60 minutes, immediately after which the question then before the House to be put, then the putting without amendment or debate of any question or questions necessary to complete the consideration of the Bill; and
3. any variation to this arrangement to be made only by a Minister moving a motion without notice.

I do not wish to detain the House long on this particular motion. I simply want to point out that the Workplace Relations Amendment (Work Choices) Bill 2005 has had very extensive debate in this House. We have currently had 22 hours and 41 minutes of debate and we have had 77 speakers on this bill. That compares with only 17 hours of debate on the Telstra bill, 14 hours of debate on the Native Title Bill, 13 hours of debate on the Higher Education Support Bill, 13 hours of debate on the Euthanasia Laws Bill and just 16 hours of debate on the Workplace Relations Bill 1996. By the time debate in this House on this bill has finished later this morning, there will have been well over 24 hours of debate, and that compares with 23 hours and 36 minutes of debate on the Research Involving Embryos Bill 2002 and Prohibition Of Human Cloning Bill 2002 which, at the time, were said to have been debated for longer than any legislation in the history of this parliament. We have had very, very extensive debate. I put it to you, Mr Speaker: how much more debate could this bill possibly require? I put it to you, Mr Speaker, that the members opposite are not interested in debating this bill, they are not interested in trying to improve this bill; they simply want to reject this bill. Let them have their chance. We have had the debate; now let us have the decision.

Ms GILLARD (Lalor—Manager of Opposition Business) (9.03 am)—Of course, the thing the Leader of the House did not tell you, Mr Speaker, is that more than 20 Labor members are going to be silenced by this motion which is gagging debate. More than 20 Labor members want to speak on the Workplace Relations Amendment (Work Choices) Bill 2005, and the Leader of the House and the tactics of this government are ensuring that they are silenced. The Leader of the House says that the debate we have had on the bill to date is satisfactory, but there are members here who want to represent their constituents on this matter who have not had an opportunity to do so and will not be extended that opportunity.

Government members interjecting—

Ms GILLARD—Yes, I am one of them—I can hear the yelling from the backbench—who, through this motion, will lose their right to speak on this bill. The government reckons that this is a profound change to the way in which industrial relations works in this country. The Prime Minister yesterday was skiting about how this bill was about his
achieving his lifetime ambition to change industrial relations in this country and to make sure that things like penalty rates and shift loadings can be taken away with the stroke of a pen. Nothing could be more important to Australian workers than their security at work and their working conditions, and members on this side want to be heard on this question.

Mr Speaker, as you are aware, I raised with you only a few days ago in this place the undesirability of the government engaging in these sorts of tactics. At the end of the day, of course, in the House of Representatives the government gets its way, but the rules of this place are supposed to ensure that the minority gets to have its say and that is not happening today with this motion brought before the parliament by the Leader of the House. As I indicated to you, Mr Speaker, when I raised this question with you, this has only been used twice before in this parliament. Once it was used for a relatively technical reason about a failure to give leave, and the first time it was substantively used to gag debate was when this government rammed the Telstra bill through this parliament—the biggest ever asset sale that a government could engage in and this government rammed that bill through this parliament. And now we know this is going to become absolutely standard procedure. We will see it today, we will see it on bills throughout—and, here we go, we are going to have a gag on a gag. You’re proud of that, are you? You’re proud of that?

Mr ABBOTT (Warringah—Leader of the House) (9.05 am)—I move:

That the question be now put.

Question put.

The House divided. [9.09 am]

( speaker—Hon. David Hawker)

AYES

Abbott, A.J.  
Bailey, F.E.  
Baker, M.  
Barresi, P.A.  
Billson, B.F.  
Bishop, J.J.  
Brough, M.T.  
Causley, I.R.  
Cobb, J.K.  
Downer, A.J.G.  
Elson, K.S.  
Fawcett, D.  
Forrest, J.A. *  
Gasbi, J.  
Haase, B.W.  
Hartley, L.  
Hockey, J.B.  
Hunt, G.A.  
Johnson, M.A.  
Keenan, M.  
Laming, A.  
Lindsay, P.J.  
Markus, L.  
McAthur, S. *  
Moylan, J.E.  
Nelson, B.J.  
Panopoulos, S.  
Pyne, C.  
Richardson, K.  
Ruddock, P.M.  
Scott, B.C.  
Slipper, P.N.  
Somlyay, A.M.  
Thompson, C.P.  
Tollner, D.W.  
Tuckey, C.W.  
Vaile, M.A.J.  
Vasta, R.  
Washer, M.J.  

NOES

Adams, D.G.H.  
Andren, P.J.  
Beavis, A.R.  
Bowen, C.  

Ayes……….. 78

Noes……….. 59

Majority……… 19

AYES

Andrews, K.J.  
Baird, B.G.  
Baldwin, R.C.  
Bartlett, K.J.  
Bishop, B.K.  
Broadbent, R.  
Cadman, A.G.  
Ciobo, S.M.  
Costello, P.H.  
Draper, P.  
Entsch, W.G.  
Ferguson, M.D.  
Gambaro, T.  
Georgiou, P.  
Hardgrave, G.D.  
Henry, S.  
Hull, K.E.  
Jensen, D.  
Jull, D.F.  
Kelly, J.M.  
Ley, S.P.  
Macfarlane, I.E.  
May, M.A.  
McGauran, P.J.  
Nairn, G.R.  
Neville, P.C.  
Pearce, C.J.  
Randall, D.J.  
Robb, A.  
Schultz, A.  
Secker, P.D.  
Smith, A.D.H.  
Stone, S.N.  
Ticehurst, K.V.  
Truss, W.E.  
Turnbull, M.  
Vale, D.S.  
Wakelin, B.H.  
Wood, J.

NOES

Albanese, A.N.  
Beazley, K.C.  
Bird, S.  
Burke, A.E.
Thursday, 10 November 2005

HOUSE OF REPRESENTATIVES

Burke, A.S.   Byrne, A.M.
Corcoran, A.K.   Crean, S.F.
Danby, M. *   Edwards, G.J.
Elliot, J.   Ellis, A.L.
Ellis, K.   Emerson, C.A.
Ferguson, M.J.   Fitzgibbon, J.A.
Garrett, P.   Georganas, S.
George, J.   Gibbons, S.W.
Gillard, J.E.   Grierson, S.J.
Griffin, A.P.   Hall, J.G. *
Hatton, M.J.   Hayes, C.P.
Hoare, K.J.   Irwin, J.
Jenkins, H.A.   Kerr, D.J.C.
King, C.F.   Lawrence, C.M.
Livermore, K.F.   Macklin, J.L.
Mclelland, R.B.   Mcmullan, R.F.
Melham, D.   Murphy, J.P.
O’Connor, B.P.   O’Connor, G.M.
Owens, J.   Pibersek, T.
Price, L.R.S.   Quick, H.V.
Ripoll, B.F.   Roxon, N.L.
Rudd, K.M.   Sercombe, R.C.G.
Smith, S.F.   Snowdon, W.E.
Tanner, L.   Thomson, J.K.
Vamvakou, M.   Wilkie, K.
Windsor, A.H.C.   * denotes teller

* Question agreed to.

Original question put:

That the motion (Mr Abbott’s) be agreed to.

The House divided.  [9.18 am]

(The Speaker—Hon. David Hawker)

Ayes..............  78
Noes...............  61
Majority...........  17

AYES

Abbott, A.J.   Andrews, K.J.
Bailey, F.E.   Baird, B.G.
Baker, M.   Baldwin, R.C.
Barresi, P.A.   Bartlett, K.J.
Billson, B.F.   Bishop, B.K.
Bishop, J.I.   Broadbent, R.
Brough, M.T.   Cadman, A.G.
Causley, I.R.   Ciobo, S.M.
Cobb, J.K.   Costello, P.H.
Downer, A.J.G.   Draper, P.
Elson, K.S.   Entsch, W.G.

NOES

Adams, D.G.H.   Albanese, A.N.
Andren, P.J.   Beazley, K.C.
Bevis, A.R.   Bird, S.
Bowen, C.   Burke, A.E.
Burke, A.S.   Byrne, A.M.
Corcoran, A.K.   Crean, S.F.
Danby, M. *   Edwards, G.J.
Elliot, J.   Ellis, A.L.
Ellis, K.   Emerson, C.A.
Ferguson, L.D.T.   Ferguson, M.J.
Fitzgibbon, J.A.   Garrett, P.
Georganas, S.   George, J.
Gibbons, S.W.   Gillard, J.E.
Grierson, S.J.   Griffin, A.P.
Hall, J.G. *   Hatton, M.J.
Hayes, C.P.   Hoare, K.J.
Irwin, J.   Jenkins, H.A.
Katter, R.C.   Kerr, D.J.C.
King, C.F.   Lawrence, C.M.
Livermore, K.F.   Macklin, J.L.
Mclelland, R.B.   Mcmullan, R.F.
Melham, D.   Murphy, J.P.
Question agreed to.

WORKPLACE RELATIONS AMENDMENT (WORK CHOICES) BILL 2005

Second Reading

Debate resumed from 9 November, on motion by Mr Andrews:

That this bill be now read a second time.

upon which Mr Stephen Smith moved by way of amendment:

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

the House declines to give the bill a second reading, because the House condemns the Government:

(a) for failing to allow the House of Representatives and the Australian people proper scrutiny of the Bill prior to the debate in the House;

(b) for spending over $55 million dollars of taxpayers’ money advertising Liberal Party policy proposals before the Work Choices legislation has entered the Parliament;

(c) for misleading the Australian people in those advertisements by making unsubstantiated assertions about the benefits of these changes and misrepresenting the extent to which employees will lose their rights under the Work Choices legislation;

(d) for creating an industrial relations system that is extreme, unfair and divisive;

(e) for failing to put working families first in developing its plans to dramatically change Australia’s industrial relations laws;

(f) specifically, for failing to commission and publish a Family Impact Statement as promised during the election for all family related legislation;

(g) for failing to provide a guarantee that no individual Australian employee will be worse off under the extreme industrial relations changes;

(h) for attacking the living standards of Australian employees and their families by removing the ‘no disadvantage test’ from collective and individual agreements;

(i) by allowing employees to be forced onto unfair Australian Workplace Agreements as a condition of employment;

(j) for abolishing annual wage increases made by the Australian Industrial Relations Commission for workers under Awards with the objective of reducing the Minimum Wage in real terms, and by removing the requirement that fairness be taken into account in the calculation of the Minimum Wage;

(k) for delaying the next National Wage Case by a period of six months, so that at least 1.7 million workers under Awards will not receive a wage increase for a period of 18 months or longer;

(l) for undermining family life by proposing to give employers the power to change employees’ work hours without reasonable notice;

(m) for destroying rights achieved through the hard work of generations of Australian workers;

(n) for undermining the principles of fairness that underpinned the Australian industrial relations system for the past hundred years;

(o) for gutting the Australian Industrial Relations Commission and eliminating the role of an independent umpire to ensure fair wages and conditions and resolve disputes;

(p) for developing proposals that will deliberately distort the workplace bargaining relationship in favour of employers and against employees;

(q) for denying Australian employees the capacity to bargain collectively with their employer for decent wages and conditions;
(r) for denying individuals the right to reject individual contracts which cut pay and conditions and undermine collective bargaining and union representation;
(s) for allowing individual contracts to undermine the rights of Australian workers under collective agreements and Awards, for instance by eliminating penalty rates, shift loadings, overtime and holiday pay and other Award conditions;
(t) for removing from almost 4 million employees any protection from unfair dismissal;
(u) for refusing to consult with State Governments in developing a unitary industrial relations system resulting in an inadequate and incomplete national system;
(v) for launching an unprovoked attack on responsible trade unions and asserting that those unions have no role in the economic and social future of Australia;
(w) for proposing to jail union representatives or fine them up to $33,000 if they negotiate to include health and safety, training and other clauses in agreements;
(x) for ignoring the concerns of the Australian community and Churches about the adverse impact these changes will have on Australian employees and their families;
(y) for failing to guarantee that wages will be sustained or increased in real terms under these changes; and
(z) for seeking to justify these measures by asserting that slashing wages will somehow make Australia more competitive, more productive, and increase employment”.

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

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (9.21 am)—In summing up, I thank all members for their contributions to this long debate on this important bill, which is about securing the future prosperity of individual Australians and their families. The Workplace Relations Amendment (Work Choices) Bill 2005 will move Australia towards a flexible, simple and fair workplace relations system. The Work Choices bill will modernise Australia’s workplace relations system by encouraging Australians to negotiate their own working arrangements at the workplace level. We on this side of the parliament believe that Australians should be trusted to have the maturity to reach their own mutually beneficial working arrangements.

Australia’s economic prosperity and the living standards of our people depend on the productivity of our workplaces. The government believes that agreement making between Australians at the workplace level will result in higher productivity, lower unemployment than would otherwise occur and increased wages. At the same time as encouraging workplace bargaining, the bill provides for the protection of a guaranteed set of minimum conditions and preserves more generous award conditions and protected conditions during bargaining. This government has ensured that a fair and robust safety net of terms and conditions exist to protect the most vulnerable workers.

During the debate the member for Perth has consistently repeated the tired old mantra that this bill is extreme, unfair and divisive. In fact, the member for Perth has uttered these words no fewer than 46 times in interviews and in this place since the start of this year. While I congratulate the member for Perth for staying on message, I can assure him that the weakness of his argument is not improved by its repetition. As the Prime Minister has said, these are big reforms but
they are fair reforms. This is evolutionary, not revolutionary, change.

A number of members of the opposition have made outrageous claims in this place that the bill will increase the gender wage gap, that it will reduce women’s pay and conditions, that it will force women onto individual arrangements or agreements with no family-friendly working arrangements and that it will increase casualisation and reduce incentives for work force participation. Nothing is more important to individual peace of mind, to family security, to vibrant local communities and to national prosperity than reliable employment. The only guarantee of reliable, secure employment is a growing and productive economy. That is the reality that we face in this country: a growing productive economy with workplace laws that encourage employment growth and make it easier for employers and employees to come together and reach agreement in their individual workplaces.

The workplace relations reforms are designed to build on and enhance the protections and flexibilities already provided to Australian workers with family responsibilities. For example, over 70 per cent of Australian workplace agreements contain at least one family-friendly provision and, of these, more than half have three or more such provisions. The strong economic employment and real wage growth that has been achieved in Australia since 1996 has had a very positive impact on Australian family life, something that the opposition will not come to terms with. What the opposition will not come to terms with is that the strength of the Australian economy is what has delivered real benefits to Australian workers and their families. Families have had the security to invest and plan for the future, with higher job security and strong and sustainable increases in wages. There has been an increase of 14.9 per cent in real wages since 1996, something which stands in marked contrast to the 1.2 per cent increase in real wages when the Australian Labor Party was in government for 13 years. That is what Australians know about the record of this government in terms of security for themselves and their families.

Women will continue to be able to access remedies in relation to pay discrimination. The Australian Industrial Relations Commission will continue to be able to make orders to ensure equal remuneration for men and women workers for work of equal value in agreements without discrimination based on sex. That is the reality of this legislation. The Fair Pay Commission in exercising its powers is to apply the principle that men and women should receive equal remuneration for work of equal value. It must also take into account the principles embodied in the Sex Discrimination Act 1984 and ensure that its decisions do not contain provisions that discriminate on the grounds of sex, marital status, family responsibilities or pregnancy, amongst other grounds. The Fair Pay Commission must also take into account the principles embodied in the Workers with Family Responsibilities Convention. So that claim is simply without foundation.

Another claim made by opposition members during this debate—by the member for Lilley—was that workers would lose up to $234 per month. This outrageous claim is based on the presumption that employees will lose their penalty rates and shift loadings under Work Choices. This is a purposefully misleading claim. Work Choices will protect penalty rates and shift loadings in awards when new workplace agreements are negotiated. The claim is also based on the false premise that Work Choices reforms will lead to a reduction in average weekly earnings. However, the aim of these reforms is the opposite—that is, to boost wages in Australia. In fact, a central feature of the Work Choices reforms is to make negotiations on agree-
ment making between employers and employees significantly easier. The evidence shows that growth in agreement making will have a positive impact on wages as workers on agreements currently earn considerably more than workers on awards.

The best guarantee that the government can give in relation to real wages is its record. Since March 1996 real wages in Australia have increased by 14.9 per cent in comparison with just 1.2 per cent under 13 years of the Labor Party. The reality is that the Labor Party is the party that has boasted in the past about driving down wages in Australia. We have not boasted about driving down wages; what we boast about is increasing wages for Australian workers. These are nonsensical claims which have been made by the Australian Labor Party.

We know the Labor Party does not represent small business in this place—it has said so itself—but anybody who does take a passing interest in the small business sector will know that unfair dismissal laws act as a clear brake on employment. The unfair dismissal laws are Paul Keating’s failed social experiment, which has subjected small and medium business to a culture of complaint and litigation which acts as a direct disincentive for business to employ more staff.

There is not just anecdotal evidence about this; there are numerous empirical studies which show that the current unfair dismissal system is bad for business. For example, Benoît Freyens and Paul Oslington have found that the average cost of contested dismissals can reach almost $15,000 or 35.7 per cent of annual wages costs. That is the average cost of unfair dismissal in Australia. That is what the opposition is defending at the present time.

The August 2005 edition of the census business index survey found that 28 per cent of employers had not hired additional employees, due to fear of action under the unfair dismissal legislation. That is the reality in the small business world in Australia. If the opposition even pretended to represent small business then it would know that these are the facts that are facing small businesses throughout this country. Finally, the OECD has found that strict employment protection legislation, which includes unfair dismissal legislation, protects existing jobs at the expense of more disadvantaged workers, including the unemployed.

Mr Albanese—Mr Speaker, I rise on a point of order. Given that the minister is exercising his right of reply in the wind-up to this debate, I wonder how he can have that right when 20 members on this side, including me, have not had an opportunity to participate in this debate.

The SPEAKER—The minister is in order.

Mr Andrews—Maybe the member for Grayndler was not in the chamber earlier when the Leader of the House pointed out that this has been the second-longest debate in the last 10 years in this place. It is a debate that went on much longer than, for example, the debate on native title legislation, when the opposition was in government.

I will continue. The key point about this is that throughout this debate it has been quite clear that there is no regard whatsoever by members of the Australian Labor Party for the unemployed in Australia. That is the reality. The exemption will allow smaller businesses to grow into larger ones without the threat of unfair dismissal laws affecting them. Labor’s continued opposition to reforming unfair dismissal laws shows that it is totally uninterested in, and disconnected from, the issues that affect small business in Australia.

In closing, let me say that the government stands firmly behind this bill. The provisions
in this bill represent an evolutionary process in Australian workplace relations and will prepare Australia for the challenges of the future rather than relying on the complexities and inefficiencies of the past. This bill will help to establish what any modern economy needs in the 21st century—that is, a single national system of workplace relations, which will improve Australia’s productivity and maintain fair minimum protections for workers.

These reforms are comprehensive and necessary. They are moving Australia away from an outdated workplace relations system to one that suits the needs of a modern, productive economy. It is a system that will give this country and the people of this country the best chance of continued prosperity in the future. I commend the bill to the House.

Question put:

That the words proposed to be omitted (Mr Stephen Smith's amendment) stand part of the question.

The House divided.  [9.38 am]
(The Speaker—Hon. David Hawker)

Ayes..........  79
Noes..........  60
Majority...... 19

AYES

Abbott, A.J.  Andrews, K.J.
Bailey, F.E.  Baird, B.G.
Baker, M.  Baldwin, R.C.
Barresi, P.A.  Bartlett, K.J.
Billson, B.F.  Bishop, B.K.
Bishop, J.I.  Broadbent, R.
Brough, M.T.  Cadman, A.G.
Causley, I.R.  Ciobo, S.M.
Cobb, J.K.  Costello, P.H.
Downer, A.J.G.  Draper, P.
Elson, K.S.  Entsch, W.G.
Fawcett, D.  Ferguson, M.D.
Forrest, J.A. *  Gambaroo, T.
Gash, J.  Georgiou, P.
Haase, B.W.  Hardgrave, G.D.
Hartsuyker, L.  Henry, S.
Hockey, J.B.  Howard, J.W.
Hull, K.E.  Hunt, G.A.
Jensen, D.  Johnson, M.A.
Jull, D.F.  Keenan, M.
Kelly, J.M.  Laming, A.
Ley, S.P.  Lindsay, P.J.
Macfarlane, I.E.  Markus, L.
May, M.A.  McArthur, S. *
McGauran, P.J.  Moylan, J.E.
Nairn, G.R.  Nelson, B.J.
Neville, P.C.  Panopoulos, S.
Pearce, C.J.  Pyne, C.
Randall, D.J.  Richardson, K.
Robb, A.  Ruddock, P.M.
Schultz, A.  Scott, B.C.
Secker, P.D.  Slipper, P.N.
Smith, A.D.H.  Somlyay, A.M.
Stone, S.N.  Thompson, C.P.
Ticehurst, K.V.  Tollner, D.W.
Truss, W.E.  Tuckey, C.W.
Turnbull, M.  Vaile, M.A.J.
Vale, D.S.  Vasta, R.
Wakelin, B.H.  Washer, M.J.
Wood, J.  

NOES

Adams, D.G.H.  Albanese, A.N.
Beazley, K.C.  Bevis, A.R.
Bird, S.  Bowen, C.
Burke, A.E.  Burke, A.S.
Byrne, A.M.  Corcoran, A.K.
Crean, S.F.  Danby, M. *
Edwards, G.J.  Elliot, J.
Ellis, A.L.  Ellis, K.
Emerson, C.A.  Ferguson, L.D.T.
Ferguson, M.J.  Fitzgibbon, J.A.
Garrett, P.  Geoghanas, S.
George, J.  Gibbons, S.W.
Gillard, J.E.  Grierson, S.J.
Griffin, A.P.  Hall, J.G. *
Hatton, M.J.  Hayes, C.P.
Hoare, K.J.  Irwin, J.
Jenkins, H.A.  Katter, R.C.
Kerr, D.J.C.  King, C.F.
Lawrence, C.M.  Livermore, K.F.
Macklin, J.L.  McClelland, R.B.
McMullan, R.F.  Melham, D.
Murphy, J.P.  O’Connor, B.P.
O’Connor, G.M.  Owens, J.
Pibersek, T.  Price, L.R.S.
Quick, H.V.  Ripoll, B.F.
Roxon, N.L.  Rudd, K.M.

CHAMBER
Ms Annette Ellis—Mr Speaker, I rise on a point of order. I seek the leave of the House to incorporate in *Hansard* the speech that I have not been able to deliver in relation to the IR legislation.

The SPEAKER—for the benefit of the member for Canberra, I point out that the resolution of the House said that we would go straight to the second reading. Therefore I cannot accept her request.

Mr Fitzgibbon—Mr Speaker, the member opposite indicated that he is happy for the incorporation to take place—and the Prime Minister, I might add. I am sure he was indicating that he would be happy for the incorporation.

The SPEAKER—if it is the wish of the House, leave is granted.

Mr Andrews—I grant leave for all of the members who want to incorporate their speeches to do so.

The SPEAKER—leave has been granted for all those who wish to.

Mr McClelland (Barton) (9.46 am)—The incorporated speech read as follows—

Australia has been a party to ILO Convention No. 98 Concerning the Application of the Principles of the Right to Organise and to Bargain Collectively since the 28th February 1974.

Article 4 of that convention requires signatories to implement measures “to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers’ organisations and workers organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements”.

A cursory examination of the Workplace Relations Amendment (Work Choices) Bill 2005 indicates that Australia is not complying with that obligation.

For instance, newly enacted section 1071 will enable a negotiating party to apply for an order from the Australian Industrial Relations Commission (the AIRC) to suspend a bargaining period “to allow for cooling off”. Of note is the fact that the section does not empower the AIRC to order the parties to maintain or restore the pre dispute status quo during the course of the cooling off period. This means, for instance, that once a cooling off period is ordered, an employer would be free to continue offering employees individual agreements despite the fact that the trade union representing the interests of those employees was seeking a collective agreement.

In other words, on their face, the provisions do not appear to enable the AIRC to make an order that would prevent a party to negotiations from taking a course of action that could undermine the collective bargaining process during the cooling off period.

The criteria the AIRC is required to consider before suspending a bargaining period are set out in subsection 1071(1)(c). Interestingly, those criteria are expressed in cumulative terms and include:

(i) whether suspending the bargaining period would be beneficial to the negotiating parties because it would assist in resolving the matters at issue; and

(ii) duration of the action; and

(iii) whether suspending the bargaining period would be contrary to the public interest or inconsistent with the objects of the act;

(iv) and any other matters that the commission considers relevant.

The first criteria will inevitably be the subject of considerable debate but notably the section does not include reference to any resolution of the matter being fair and equitable. Arguably it would be open to a party to submit that terminating or negating the impact of industrial action by ordering a cooling off period would result in capitulation by the striking party thus “resolving the matters at issue”. In other words, consistently with the Fed-
eral Governments frequently stated policy of the parties to the employment relationship determining matters between themselves, without intervention by a third party, the outcome of the resolution of the matters at issue appears to be an irrelevancy to the AIRC’s deliberations in considering whether to impose a cooling off period.

In that context, it is to be noted that the provisions do not refer to any concept of good faith bargaining nor require the AIRC to have regard to whether or not a party to a dispute is acting unconscionably. An interesting point of difference is to contrast the absence of any reference to a concept of good faith bargaining in section 1071 which empowers the commission to impose a cooling off period and will most likely be used by employers, with the provisions of section 106B(4) which imposes on trade unions an obligation to establish that they have undertaken bargaining in good faith if they wish to avoid their industrial action being categorised as “pattern bargaining”. In the absence of a specific reference to the concept of bargaining in good faith in section 1071(3) it remains unclear as to whether the AIRC should, before suspending a bargaining period, apply its traditional principles of equity and good conscience to take into consideration the fairness of any likely resolution of the matters in dispute as well as the conduct of the parties during the period of disputation.

Finally, it is to be noted that the public interest criteria in S1071(c)(iii) is expressed in the negative in the sense that AIRC is required to consider not whether suspending the bargaining period would be in the public interest but rather whether it would be contrary to the public interest to suspend of the bargaining period. The expression of the public interest criteria in this way would appear to impose less of a hurdle on the AIRC imposing a cooling off period.

Sub paragraphs 107J(3) and (4) empower the AIRC to grant one extension of a suspension period but the limitation on the granting of only one extension of a cooling off period would appear to be restricted to an application by an employer and not, for instance, an application by a third-party under section 107J.

Section 1088 specifically confirms that industrial action undertaken during a cooling off period is not protected action.

Suspension on application by a third-party

Section 107J empowers the AIRC to suspend a bargaining period on application by a third party. The section is expressed in particularly broad language, for instance, section 107J(1)(e) provides that the AIRC may suspend the bargaining period “if the Commission considers that the suspension is appropriate” having regard to specified criteria including “any other matters that the Commission considers relevant.”

Section107J(2) indicates that virtually any industrial action by a trade union could potentially establish the criteria for the section being invoked. The section provides that, in exercising its discretion, the AIRC “may” have regard to the following:

(a) if the person is an employee—the extent to which the action affects the interests of the person as an employee;
(b) the extent to which the person is particularly vulnerable to the effects of the action;
(c) the extent to which the action threatens to:
   (i) damage the ongoing viability of a business carried on by the person; or
   (ii) the supply of goods or services to a business carried on by the person; or
   (iii) reduce the person’s capacity to fulfil a contractual obligation;
(d) any other matters the commission considers relevant.

Significantly the term “employee” in paragraph 107J(2)(a) is not specifically defined and would potentially include an employee not only of the employer against whom the industrial action is taken but also an employee of a third-party affected by the industrial action. In that sense it is clear that the potential class of applicants who may seek the imposition of a cooling off period is extremely broad.

Again sub paragraphs 107J(4) and (5) empower the AIRC to grant one extension of a suspension period, however it would seem that the limitation
on the Commission granting just one extension applies to an application by a third-party under 107J. In other words, there appears to be nothing to prevent an application for a cooling off period by an employer under section 107J followed by an application for an extension of the cooling off period by an employer also under section 107J, followed by an application for a cooling off period by a third-party under section 107J followed by an application for an extension of the cooling off period by a third-party under that later section.

Prohibition of Pattern Bargaining

Section 107H prohibits industrial action that is in support of pattern bargaining claims. The concept of pattern bargaining is defined broadly in section 106B as including where:

(a) the person is a negotiating party to two or more proposed agreements; and
(b) the course of conduct involves seeking common wages or conditions of employment for two or more of those proposed agreements: and
(c) the course of conduct extends beyond a single business.

It can be seen that prima facie any two schedules of demand prepared on a common word-processing system could fall foul of section 107H. However, returning to the interesting point identified earlier, the government has for the first time since 1996 recognised a concept of good faith bargaining in subsection 106B(4). That subsection provides a defence to an allegation of pattern bargaining if a trade union can discharge an onus of proof imposed by the legislation to satisfy the Commission that during the course of the bargaining period the party:

(a) demonstrated a preparedness to negotiate an agreement which takes into account individual circumstances of the business or part; and
(b) demonstrated a preparedness to negotiate an agreement with an expiry date which takes into account the individual circumstances of the business or part
(c) negotiated in a manner consistent with wages and conditions of employment being determined as far as possible by agreement between the employer and its employees at the level of the single business or part;
(d) agreeing to meet face to face at reasonable times proposed by another negotiating party;
(e) responding to proposals made by another negotiating party within a reasonable time;
(f) not capriciously adding or withdrawing items for bargaining.

It is unclear as to whether a union that fails to establish a defence to engaging in pattern bargaining is at risk of a finding that their conduct up until that point has been unprotected action. This is a particularly important issue given that the party taking the industrial action bears the onus of proving that they were bargaining in good faith and were not undertaking pattern bargaining (Section 106B(5)). On a literal construction of section 107H there appears to exist, until that onus is discharged, a substantial risk for trade unions that they will be found to have engaged in pattern bargaining.

It appears that the operation of Section 108D would result in a failure to discharge that unions refuting the allegation of Pattern Bargaining that industrial action both up until that finding is made and after the finding is not protected action. In other words section 108D would appear to have its own operation irrespective of whether an order is made to suspend or terminate the Bargaining Period under section 107H.

The state of uncertainty caused by the inconsistency is particularly concerning as on the broad and literal construction of section 108D a trade union could retrospectively be held to have engaged in unprotected action thus exposing the union and relevant officers to the prospect of a penalty or action for damages.

In other words, on this broader construction the risk associated with undertaking pattern bargaining is a risk that begins immediately that the industrial action is commenced even if, but for the provisions of section 107H, the provisions of the act in respect to the technical requirements of establishing lawful protected action have been complied with.
Injunctions

Section 111A empowers “the Court” to grant an injunction “in such terms as the Court considers appropriate” against industrial action that is “engaged in, or is threatened, impending or probable” where that industrial action is in respect to “pattern bargaining”.

“Court” is defined as meaning the Federal Court of Australia, the Federal Magistrates Court, a Supreme Court of a State or Territory, or County Court, of a state.

Arguably the provision is superfluous in that once a bargaining period is suspended or terminated the person or body subject to the industrial action would have access to common law remedies including injunctive relief. On the other hand, as a result of creating access to a specific statutory injunctive mechanism the Government has removed the need for a party seeking injunctive relief to establish a prima facie case in respect to all elements of a common law tort action including, typically, necessary intent to cause economic harm.

In other words section 111A appears to be a general catch all that is analogous to a strict liability situation in that the party seeking injunctive relief would appear to be automatically entitled to that relief on establishing the existence of pattern bargaining without proving any other elements of mens rea that are normally associated with applications for injunctive relief based on the economic torts or statutory penal provisions that prescribe or outlaw industrial action.

Of note is the fact that a party is entitled to seek injunctive relief under section 111A irrespective of whether or not the Commission has suspended the bargaining period under section 107H. The section would also be available to injunct ongoing industrial action if a trade union continued with industrial action despite the Commission suspending a bargaining period.

Industrial Action Must Not Take Place “in Concert” with Persons Who Are Not Protected for That Industrial Action.

Section 108C provides that industrial action is not protected action if “it is engaged in concert with one or more persons or organisations that are not protected purposes for the industrial action” or “it is organised other than solely by one or more protected persons.”

There is an extensive body of case law in respect to the concept of “acting in concert” including, most relevantly, in respect to industrial action, case law concerning the operation of sections 45D and 45E of the Trade Practices Act. Presumably that body of case law will apply to the operation of section 170MM.

The wording of section 108C raises the same issue discussed earlier in respect to section 108D in that both sections are expressed broadly and state that the particular conduct referred to in the respective sections is not “protected action”. As previously noted a literal construction of the two sections may mean that industrial action, as a result of a subsequent finding by the AIRC, retrospectively loses the status of being protected action thus exposing the trade union and officials of the trade union to a potential penalty or action for damages.

These provisions have potentially far reaching repercussions for trade unions that join in industrial action with other trade unions that may, for instance, jointly have members in a particular enterprise. In particular, in such a situation, it would appear that a technical error on the part of one union in effecting the protected action provisions of the legislation may ultimately end up infecting the protected action status applying to all other trade unions and officials engaging in that joint industrial action.

In conclusion it can be seen by this brief and necessarily cursory analysis of even these limited number of provisions that the thrust of this legislation will effectively make collective bargaining a practice that occurs only with the acquiescence of the employer. This is not in accordance with the principles of Australia’s International Treaty obligations and significantly shifts the balance of industrial power away from those organisations that represent working Australians.

Ms VAMVAKINOU (Culwell) (9.46 am)—The incorporated speech read as follows—

Mr Speaker today I join with the overwhelming majority of Australian people and to oppose the Workplace Relations Amendment (Work Choices)
Bill 2005, a Bill whose implementation will bring about the most radical and extreme changes to the workplace environment this country and indeed the most extreme changes that Australian workers have ever seen. This bill takes Australian workers, in particular my hard working constituents in Calwell, back to a dark time in Australian history where workers were underpaid and exploited by their employers.

Today I join the chorus of opposition to this bill and stand with the many Church leaders, welfare organisations, unions and community groups who oppose these draconian measures. The message from these groups, who are best placed to understand the needs and aspirations of Australian workers is loud and clear—these new measures will have a negative impact on Australian workers and more importantly on Australian families.

My electorate office has been inundated with concerned constituents who want me to oppose this bill. Whether it be average workers who are worried about their pay and conditions, students concerned about entering the workforce, or parents worried about tipping the balance of family and work. Pensioners in my electorate are frightened that the downward push on wages will reduce or freeze their current payments, and those on disability or single parent payments are concerned that the Government’s welfare to work policy will push them into even less meaningful, less paid and less secure jobs.

These changes are nothing short of radical and they will significantly affect the relationship between Australian workers and their employers. The relationship—developed over a century—which on the whole, respects the rights of both worker and employer is about to be radically changed. Changes which in reality are not in the best interests of workers because they should not be at the mercy of their employers, they should not have their current protections removed and they should not be left with what amounts to no choice in regard to their wages and conditions.

Equally it’s not in the employers’ interest to have conflict in the workplace which most certainly will be brought about by this bill as the balance of negotiating power shifts. It is not in the employers’ interests to be treated with scepticism by their employees, not to be trusted, or to have your workers on edge and feeling vulnerable. This does not make for a productive or harmonious workplaces and it undermines all the hard work that has gone into building a workplace system which embodies the essence of the Australian ethos of the “fair go”.

We have a proud tradition in this country. For over 100 years workers have been guaranteed the right to earn a wage that allows them to meet their basic living needs with dignity. The dignity and integrity of the minimum wage is guaranteed through the Industrial Relations Commission and workers have been able to secure better pay and conditions through their right to collectively bargain with unions freely representing them in the workplace.

‘A fair days work for a fair days pay’ guarantees workers the right to a decent standard of living. This is protected by awards—setting minimum conditions—a right earned by Australian workers, a right that too often some people take for granted. The young who were not in the workforce in the darker days, but whose parents fought for better pay and conditions, will soon understand the struggles fought and won by previous generations of working men and women. All Australian’s will soon be reminded of how far we had come and how regressive these changes are when we start going backwards.

The exploitation of workers and workplace hazards have largely been dealt with in Australia and they have so because of our strong and robust union movement. Workers have enjoyed the right to have union membership, to have their unions move freely in the workplace and to be represented and protected by the collective bargaining. This Government wants to take workers in this country to third-world working conditions. They want unions to be silenced, and to eventually eradicate the union movement all together.

If the Government gets its way, basic rights will be removed by this legislation, at a time when company profits are at an all time high, when company CEOs earn a ridiculous amount of money, and when the Australian economy is doing extremely well. Paradoxically it is at this very time, that Australian workers are told that their minimum wage is too high and that the wages and conditions they have earned are too costly and
changes need to be made to free up the workplace. This term ‘free up the workplace’ is being sold by Howard as a wonderful opportunity for flexibility and choice; the Government is promising more jobs, higher wages and a better economy—nothing can be further from the truth. The truth is that this Government’s Work Choices Bill frees up the workplace by giving employers almost total control of the bargaining process, thus allowing them to effectively set wages and conditions.

The Prime Minister is hoping that the public will be duped into believing that this is a great opportunity for individual choice and flexibility. He is hoping that working women will fall for the illusion that all employers will be family friendly, but no one seriously expects an employer to put concerns like parental responsibilities ahead of company profits. The Prime Minister is correct when he says the Australian people are wise. A fifty million dollar PR campaign and all the spin in the world will not blunt their wisdom on this occasion—the polls show that the public is not buying your spin Prime Minister.

Australian workers are seriously worried about their future. In my electorate they have seen their workmate laid off in droves, as the manufacturing sector continues take work offshore because workers in third world countries work for next to nothing and are easier to exploit. We only need to look at the automotive components industry in my electorate alone to see how many jobs have been lost locally and shipped offshore, just so company profits can be improved. What is the Government doing to solve this problem, Mr Speaker; this bill certainly isn’t the solution. I think it is a sad indictment on this Government and corporate decision makers when they value marginal profit increases over the greater good of society as a whole.

At the last election this Government ran a scare campaign about interest rates, but in retrospect this is not what families paying off a mortgage had to fear. It is this bill, which undermines wages, and destroys job security that workers paying a mortgage need to worry about. I have a large number of young families moving into my electorate, building new homes, and wanting to raise their families. What will they tell their bank managers when they are unfairly dismissed and can’t meet monthly repayments? Why shouldn’t Australian workers feel safe in their work place and secure in the knowledge that a guaranteed decent level of pay will ensure that they can meet mortgage obligations? These are the things that are in jeopardy, it is the Australian way of life—the Australian dream of home ownership itself—that is in danger of being lost under this legislation.

In a market economy profit prevails, with workers considered only as a commodity for profit. Small business operates on the basis of making a profit and although we do want to encourage people to invest in small business there is no guarantee that thousands of new jobs will be created because of the abolition of unfair dismissal. I know it is the popular mantra of employer organisations and the government, but I do not believe that many more jobs will be created. The Government often in this place tells us that between 40,000 and 70,000 new jobs will be created instantaneously. Well who’s buying that?

According to the Prime Minister, small business wants the ability to get rid of pest employees, as he calls them, without having to worry about unfair dismissal claims. He tells us that workers will be able to access a different set of laws—the Unlawful Dismissal provisions of the Workplace Relations Act. Well Mr Speaker very few workers, if any, are going to be able to afford the thousands of dollars required to seek legal redress under these provisions.

The reality of the workplace tells a far different story to the one the Prime Minister asserts. It tells a story of employers seeking the best possible deal for their improved profits. It tells of employer preference to employ younger people in order to avoid paying higher awards, leaving mature aged, experienced people without even a look in. There are countless stories of workplace discrimination, so much so that the Workplace Relations Standing Committee in the last Parliament conducted an inquiry into the long term unemployed and found an alarming rate of discrimination against older and disabled workers. In fact so serious was our concern that the Committee made specific recommendations to encourage and in-
deed impose on employers the need to employ mature workers.

Consider the removal of this so-called “pests clause” for companies who employ under 100 people, and then tell Australian workers that they are going to get a better deal under Howard’s industrial relations panacea. It’s a joke and no one is buying it. The reality is that our workplaces need further reform, but not by dismantling the protective arrangements that currently exist. In fact Mr Speaker, this Government’s disgraceful IR changes introduced in 1996 need to be unwound.

Prime Minister Howard knows he had a huge task in selling these regressive measures—so he goes about the job of spinning his weasel words by attacking and defaming the union movement, then he takes millions of tax payer’s dollars and bombards the Australian public with propaganda ads. Well people are sick and tied of the propaganda, they are not buying it. This is not Tampa, this is not boat people and refugees, this is not multiculturalism, this is a direct assault on Australian families and the Australian people are not buying it. This is industrial terrorism. The government is destroying the working conditions of Australians and it will not be forgiven for doing so.

The Prime Minister asserts that these are welcome changes but I ask, welcome by whom? We don’t see communities mobilising in support of these changes and we don’t see polls backing this legislation, so who, other than his little band of ideological zealots, does support them?

There are far too many questions that the Prime Minister has not answered and the Australian people deserve some answers. He even refuses to debate the Leader of the Opposition about these changes on National Television.

For instance, who is going to protect sole parents and the disabled workers, including the many thousand in my electorate, who are to be pushed into the workforce and who will be most vulnerable in an unprotected industrial relations system? How can young people negotiate in an environment where rules that now protect them have been removed? Who truly believes that employees have an advantage because of the plethora of so-called jobs available? The right to pick and choose is a cruel illusion. Just ask the mature aged unemployed and the long-term unemployed about the plethora of choice. Just ask those in the long cue of unemployed people outside my local Centrelink office each week about what they think of this plethora of jobs. We still have over 2 million unemployed or underemployed people across the country and the Prime Minister has the cheek to speak as if we have full employment.

In my electorate alone, the unemployment rate has increased from 6.6% in June 2004 to 8.9% a year later. So when the Prime Minister says that if workers are not happy with proposed contracts that they can just get another job, it just proves how removed he is from average, struggling Australians. We do not have decreasing unemployment in my electorate and nor do we in many others.

And perhaps the biggest question of all is: why won’t the Prime Minister guarantee that no worker will be worse off under this system? We all know the answer Mr Speaker—he can not guarantee it—because workers will be worse off.

This bill is not about the economy, it’s not about creating more jobs and it’s not about choice or flexibility—it’s about control in the workplace by employers and this Government. Control, formed through exploitation, control based on penalties, fines, jail terms and secrecy. This bill creates a fascist regime where workers are forced to yield to the profit priorities of the employer and if they don’t, they seek help through their unions, they become targets for dismissal.

This is an attack on the union movement in a bold and punitive way. In the Prime Ministers mind, unions must be eradicated from the workplace equation, as they have for too long been a thorn in the conservatives side. As I said in this place last week, Unions will not be legislated out of existence—your fascist legislation will not silence workers unions—it will make unions more determined to survive.

Labor is proud to be a political movement born from the trade union movement. Labor is proud to represent the hopes and aspirations of Australian working men and women, and Labor will protect Australian families. We will do what we have always done in the 100 years of this great political movement; we will ensure that ordinary Aus-
ustralians continue to enjoy the right to earn a respectable living and to enjoy decent Award conditions.

This is in no way a fair Bill, there is no fairness in this Bill whatsoever. And with the overwhelming support of my electorate and the majority of Australians, I will oppose these draconian measures that are nothing short of anti-worker and anti-family. I will stand side by side with unionists and workers, with families and single parents, and with the unemployed and the disabled from my electorate in defending them against these changes. I will join them in the streets next week, and in the coming months, to protest against this so-called Work Choices Legislation.

Mr Speaker, I, like my colleagues on this side of the chamber, will work day and night, and in fact we will not stop opposing these changes right up until the next election. As workers begin to feel the pain of this legislation as it impacts on their weekly pay packets and working conditions, so too will this government feel the wrath of the workers at the ballot box.

Mr Speaker, I pledge to restore the supremacy of the collective bargaining process, to remove the appalling restrictions imposed on unions and their right of entry in the workplace, to restore workers rights to freedom of association, and to reinstate a strong independent umpire to ensure fair wages and conditions and to settle disputes. I will oppose your Industrial Terrorism; the Australian people will let this government know just how unforgivable this attack is at the next election.

Mr ALBANESE (Grayndler) (9.46 am)—
The incorporated speech read as follows—
I rise to speak against these extreme and draconian proposals—the nonsensically named Workchoices Bill, Workplace Relations Amendment 2005.

These proposals go well beyond the government’s platform that it took to the last election.
The electorate was not given the option to consider Workchoices—this was not the choice that they made.

Instead Workchoices is a result of this government getting free reign.

We all know this is John Howard’s political swansong and he’s intent pushing through his ideological agenda—no holes barred.

This legislation is all about John Howard’s past.
The government’s ideological grip is so desperately tight that they continue to determinedly squeeze out any opportunity for proper scrutiny and debate of this legislation.
The Government has gone to great lengths to ensure that there is only minimal scrutiny of this legislation.

- Workchoices will be given only two days to be debated on the floor of the house
- John Howard has refused again and again to take up the Leader of the Opposition’s challenge to a live television debate
- A hasty and only nominal Senate inquiry will occur to consider this legislation

So lacklustre is this inquiry that it will last only five days, it will not travel it beyond Canberra to other capital cities, it will hear no evidence from the authors of the thousands of written submissions to the inquiry and it will only addresses some aspects of the legislation.

The inquiry will not address the termination bargaining agreements, the imposition of secret ballots, pattern bargaining, strike pay, freedom of association, right of entry for union officials and a raft of other provisions in the legislation.

However the most outstanding aspect of this hasty superficial inquiry is the ridiculous structure proposed the chairwoman, Senator Troeth.

The notion of each side nominating four experts to debate the Workchoices legislation is farcical.
Instead of scrutiny and debate the Australian public got Liberal Party propaganda—$55 million dollars worth of propaganda, paid for by the taxpayer.
The notion of each side nominating four experts to debate the Workchoices legislation is farcical.
Instead of scrutiny and debate the Australian public got Liberal Party propaganda—$55 million dollars worth of propaganda, paid for by the taxpayer.
The government’s propaganda campaign has been exposed as full of spin and mistruth.
And in the dismal case of the Workchoice booklets—it has been nothing more than a fraudulent waste of taxpayer’s money.
• The booklets have been pulped at taxpayer’s expense.
• The booklets have been stockpiled at taxpayer’s expense.
• The booklets have been couriered all over this country at taxpayer’s expense.

The television advertisements that flooded screens across this country not only cost taxpayers millions, they mislead the Australian people with smiles and spin.

We have learned that many of the participants in these advertisements were mislead as to what the purpose of the ads were.

Some though they were about workplace safety.

These people were mislead just as the people of Australia have been mislead by this untrustworthy government.

This has been a fraudulent propaganda campaign by the government - and yet John Howard continues to stand in this place and asks that Australian people with trust him on his record.

He has given no guarantee to the workers of this country because he knows that Workchoices will make workers worse off. Indeed that is the objective of these laws—to lower wages, to lower working conditions and thereby to lower the living standards of working people in this country.

This government is intent on driving wages down. Those most vulnerable in our society will be hit the hardest by this legislation.

We all know that in the contracting industry, nine times out of ten the cheapest tender wins the job.

In the past the competition between contractors would have been based on quality and efficiency. However under Workchoices, competition will be focused on the company with the cheapest labour costs.

Contractors using a new operation agreement will be able to cut wages and conditions to make their tendering price cheaper.

The cleaners, the security workers, the caterers, the maintenance workers of this country are under attack.

This government wants to hit the shift workers of this country the hardest—to reduce their rate of pay, to deny them of penalty rates and shift loading—to drive the living standards of their families down.

Minimum wage

• There is no economic justification for these proposals —this is not about increasing productivity but all about driving wages down.
• In my electorate nearly 35% or some 27,000 plus people rely on the minimum wage.

As section 88 of the current Workplace Relations Act clearly states, a minimum wage is set in regard to ‘the need to provide fair minimum standards in the context of living standards’ and to consider ‘the needs of the low paid’.

Howard’s farcically named Fair Pay Commission will perform its wage setting function with reference to the ‘economic prosperity of the people of Australia’.

• References to fairness have been removed.

The very word that this government reprinted thousands of booklets to insert has been removed in the function of setting the minimum wage.

The Fair Pay Commission is all about fulfilling Howard’s ambitions—we know that if he had his way over the last 10 years the minimum wage would have been reduced in real terms by 1.55%. That is $50 less per week work the some 27,000 working people of my electorate.

John Howard asks the Australian people to judge him on his record—well his record on the Australian minimum wage is to oppose every single increase granted by the AIRC.

Not only does this government want to drive down wages but it wants to undermine job security.

Workchoices removes the protection from unfair dismissal for some 4 million Australians.

This right will now only be reserved for those privileged few who work for companies that employ over 100 people.

And how long will that last? Employers will manipulate their structures so that they scrap in under the 100 employee cap.

No disadvantage test

And still the attacks continue.
The removal of the ‘no disadvantage test’ from collective and individual agreements will undermine the living standards of the working families. Under Workchoices the abolition of the award based ‘no disadvantage test’ public holiday rates are not protected. Workers will be faced with a choice of signing an agreement that requires them to work on ANZAC day or Christmas Day without compensation.

The fact is that public holidays are not “protected by law” as the liberal government propaganda asserts.

The abolition of the no disadvantage test puts at risk all the conditions that have been fought for and won by workers in this country—public holidays, rest breaks, meal breaks, incentive based payments and bonuses, annual leave loading, allowances, penalty rates, and shift and overtime loadings.

Under these laws workers will face a simple choice: accept the terms offered, or find another job.

This government is content to see workers hired and fired at will and to have them work for low wages, under second-rate conditions.

These changes erode the basic values of working families.

Workchoices undermines the already precarious balance for working families between work and family life.

Rights of the working people of this country are being eroded and with them the very values that we are so proud of in this country.

Fairness, respect and fair go—ALL GONE under this Howard government.

This is extreme and un-Australian legislation.

John Howard and Peter Costello want us to become like America.

Australia can’t afford American industrial relations.

They want us to compete with China and India on wages—how can we do that?

This a government controlled by ideological desperation.

The Howard government is determined to take the working families of this country down its low wage, low skill path - and to subsequently drive down the living standards of working Australians.

Mrs IRWIN (Fowler) (9.46 am)—The incorporated speech read as follows—

The brave new world of employment in Australia that is set out in this bill is a long way from what the great majority of Australian have thought of as basic to their work and living conditions.

But I doubt that many Australians will read the detail in the legislation.

Australians do place their trust in governments.

And we are generally optimistic.

Most of us expect to be able to work to support ourselves and our families.

We expect that working reasonable hours in a decent job will provide us with the means to do more than just get by.

We expect life to get better not harder.

We expect that our children’s lives will be a bit easier and their opportunities will be greater than they were for our generation.

If you ask what people mean when we use words like aspiration or what someone once referred to as the ladder of opportunity, the answer you will nearly always get is not that they want a bigger house or a better car.

It is not overseas travel, or a boat or caravan.

What they aspire to is to see their children achieve to the best of their ability.

And in what has been something of a surprise to me, its seems the biggest response expressing concern for the impact of the government’s IR legislation has come from older generations and in particular from post war baby boomers.

Apart from the great depressions of the 1890’s and the 1930’s, Australia has not suffered form a time when living standards have gone backwards.

But that is the direction we will be headed in if this legislation is passed.
The other day in this house the minister for workplace relations boasted that the minimum wage in Australia at $12.75 an hour was nearly twice the minimum wage of $6.85 in Australian dollars that applies in the United States.

The Prime Minister tells us that the interests of the unemployed will be taken into account when determining the minimum wage.

His theory is that if you reduce the minimum wage then more people will be employed.

But what he doesn’t come out and say is that for the United States.

The country whose industrial relations system he so much admires.

In the United States, where the minimum wage is about half of that applying in Australia.

The unemployment rate at about five per cent is the same as Australia’s with a minimum wage twice as high.

Can you imagine a family in Australia trying to get by on less than $250 a week?

But if we want to continue to compare our performance with the United States, we should also look at what is happening to wage levels across the board.

Over the past five years the median wage in the United States has gone backwards.

Average wages in the US are less now than they were 5 years ago.

And that is in spite of huge increases in higher level salaries.

Jobs growth has been in the area of low skilled low paid work, the main factor in driving down average rates of pay.

Skilled jobs have disappeared offshore and productivity growth has stalled.

That is what has happened in the most flexible labour market in the world.

And the result of that degree of labour market flexibility is the emergence of a sub class of working poor.

And a nation where one child in five lives below the poverty line.

Now I know that Australia has a system of family assistance payments, but you have to ask if they may come to represent a subsidy to low paid workers.

For more than 100 years we have had the benefit of a system which took into account the needs of low paid workers and attempted to ensure that Australians in full time employment could live in what was once termed frugal comfort.

But given this government’s record of opposing increases in the minimum wage, we can now expect the gradual erosion of a living minimum wage in Australia.

And despite what the government’s advertising blitz would want us to believe, increasing levels of employment are far from guaranteed by cutting the wages of the lowest paid.

You would expect the government to trot out a stack of expert opinions showing how much better off every worker will be under the changes.

But the government can’t seem to get the experts to agree with its vision of a workers paradise that it thinks will follow from these changes.

The Prime Minister won’t give a guarantee that no worker will be worse off under the changes.

The Prime Minister says his record is his guarantee.

But even if we ignore his record as the world’s worst treasurer back in the early 80s.

When we take his recent record you have to ask if the present run of luck with the economy will go on forever.

How much longer will we enjoy our best terms of trade in more than 100 years.

How much longer can we run up trade deficits before we can’t run up any more debt.

How much more can our manufacturing industries shrink before we are left with just a few cottage industries.

But to listen to government members the solution for these problems lies in these changes.

At a time when we face severe skill shortages the government’s solution is to import skilled workers when we can find them.

At the same time youth unemployment continues at high levels.

But according to the government all this will be solved by pushing wages down.
What’s the point of spending years gaining a skill when it is not valued.
When instead of higher pay attracting more entrants to a trade or profession, the government simply allows employers to recruit workers overseas.
One way or another, Australian workers whether they are part of the traded goods.
Economy or the domestic economy will be forced to accept wages payable in a global economy.
And the only direction for wages under those conditions is for wages to fall.
This is the biggest change to wage determination in Australia.
The basis for our wage fixing system from the beginning was that if Australian industry was to be protected by tariffs, then industry must pay a level of wages that suited Australian conditions.
And while that has changed over the years, the expectation of workers has remained.
We are not the only country facing adjustments in a global economy.
But we have two choices.
We can allow Australian wages to fall to the levels of China or India.
Or we can decide that we must maintain a high standard of living for all Australians.
We must decide if we exist as an economy or as a society.
The other tool for ensuring some equality in living standards is that provided by our social welfare and health systems.
But these rely on taxation revenue from a productive workforce.
So these changes go to the heart of our society.
They place at risk every aspect of our social structure.
That is why they have raised the concern of so many civic and religious leaders across this country.
If the people of Australia were ever relaxed and comfortable, these changes have come as a sharp reminder that you cannot take for granted the protection offered under our previous wage fixing and industrial relations systems.

This is the brave new world.
There will be some winners.
But there will also be a lot of losers.
What this government has placed in jeopardy is not just the economic future of some Australians.
It runs the very great risk of destroying the foundation of Australian society.
Instead of a workforce confident in its skills and work ethic we risk becoming a nation where our workforce performs only to a level seen as acceptable for the wage offered.
Instead of pay for performance we will see performance for pay.
If you pay peanuts you get monkeys.
Improvements in productivity do not come about by squeezing the last drop of blood from workers.
They come about by the combined efforts of workers and management to make those improvements.
The first thing that every manager should learn is that people work for their own goals not those of the organisation.
Successful managers can bring those individual goals together with the goals of the organisation.
But for all the talk that we get from this government about flexibility, in almost every case it is totally one sided flexibility.
If an employer demands work outside regular hours or split shifts, they may suit some employees, but not all.
And when an employer can’t find enough flexible employees they will complain about workforce shortages.
Now what really alarms me about that are moves being made as part of the next wave of globalisation.
We have seen manufacturing jobs going offshore.
We have seen computer software development going offshore.
We have seen call centres going offshore and many other support and maintenance functions.
But there is now a great deal of pressure from countries such as India and the Philippines for global markets in direct services.

CHAMBER
Now Australia has for historical reasons not allowed guest workers in the same way as some European countries.

The idea of Australia making use of low skilled and hence low paid workers on short term contracts is being floated by some industry leaders.

And this legislation effectively opens the door to guest worker type contracts.

When we treat employment as just another market transaction, it really doesn’t matter who is employed.

What this legislation will destroy is the whole idea of a living wage.

By stripping conditions such as career progression and skills recognition, we are destroying the opportunity for employees to set personal goals and work toward developing with an organisation, to the benefit of the employee, the organisation and the nation.

By abolishing the established loadings for working unsocial hours we are tearing away the social fabric of our society, our families and in many cases a healthy lifestyle.

And in opening the way for averaging of work hours over the year, penalty rates for overtime will become a thing of the past.

This will have a huge impact on many medium income earners.

Many families depend on the extra pay that overtime delivers.

The penalties paid by workers in higher marginal tax rates can only be justified by time and a half payments.

But experience in industries where workers have already traded away overtime payments shows that income levels have fallen dramatically.

And overtime is no longer an option.

Many workers do not have the choice to work the extra time.

They cannot negotiate their hours or even agree to roster overtime or weekend work.

Without penalty rates there is no incentive for workers to volunteer to work outside social hours.

We already know of the difficulty in attracting nurses to work on weekends.

How much harder will it be to get staff when there is no incentive to work these times?

In one example of an arrangement where overtime payments were cashed out, the loss in income was over $10,000 a year.

That is a huge amount to a working family and means the loss of those little extras in life that many workers would hope to receive.

These changes will not take place overnight but they will happen.

Over a period of years workers will see much of what they have taken for granted will be eroded by these changes.

By then Australia will be a different society.

And it may be impossible to put things back the way they were.

The challenge today for the labour movement is to take this legislation as the starting point.

To think of this as the burned out ruins of a system that will need to be rebuilt.

In a few short years Australian working people will be crying out for a fair and decent system to protest their rights in the workplace.

Our challenge after today is to rebuild that system.

It will not be the same as the system destroyed by this legislation but it can be a fair and decent system all the same.

This bill, the Prime Minister’s dream will become a nightmare for the working men and women of Australia.

Its effects will lead to the end of this government as surely as a similar attempt to abolish the industrial relations system in the late 1920s under the Bruce government.

The Prime Minister would do well to recall the fate of the Bruce government and Bruce himself, he lost his own seat at the election following his attempt to make his dream a reality.

Or it may be that the Prime Minister will retire before the next election and pass on this poisoned chalice to his successor.
Either way, by then the damage will have been done.

And a Labor government will have to put the pieces back together again.

**Mr SNOWDON** (Lingiari) (9.46 am)—

_The incorporated speech read as follows—_

These are speaking notes that I intended to use as part of my contribution to debate on the Workplace Relations Amendment (Work Choices) Bill 2005. Unhappily, I have not been given the opportunity to speak in the House by the Government’s decision to guillotine debate on the bill.

I have quite simply been gagged and prevented from airing my views and the concerns of the people of Lingiari in the House of Representatives.

These notes form the basis of the contribution I would have given had I been able to speak in the chamber. I would have elaborated on how this radical attack on the working lives of Australians will affect the people of my electorate, Lingiari: people whose concerns will now be ignored.

This bill is an attack on the very fabric of Community Life in Australia.

It is not the Australia Way. It attacks the fundamental concept of “A Fair Go”.

The “Fair Go” is something that generations of Australian have fought to preserve and extend.

The nature of work and the communities supported by economic activity across the country have and will always be in state of flux.

Change is often a cause for anxiety, but for Australians there has been security in our independent system of arbitration and conciliation to protect workers and to take a wider view of community expectations and ability to progress Australia for the benefit of all.

What is unnerving for Australians is that a system that has orderly evolved over a hundred years with proper public and parliamentary scrutiny and taking account of the sensible work-family balance is being undone by a slick advertising campaign that insults the dignity of the Australian worker and by a government determined to use its complete power to limit scrutiny and inquiry by steamrolling its industrial relations laws through the parliament.

As Glenn Milne noted in the Australian Newspaper yesterday, if the prime minister:

is so proud of his final ideological vindication why not let debate run in the parliament.

A sentiment also expressed by former prime ministers Gough Whitlam and Malcolm Fraser.

Australians should be in no doubt that this legislation will not only change the nature of the employer – employee relationship but will dramatically redefine our communities and in particular how individual workers see themselves and relate to each other at work, at rest and in their wider community.

Social commentators are beginning to look beyond the immediate workplace implications of the Work Choices Bill and see a redefining of the Australian culture.

The coordinator of the Catholics Lobby Regina Lane in the Catholic News last weekend stated that:

the changes will leave low paid and unskilled workers vulnerable to exploitation and increase the pool of working poor.

Further she adds:

The Catholic Church has a strong tradition of upholding workers rights, and has particular advocated the right to bargain collectively. This right to association and representation are fundamental principles of democracy. The attack on the unions cuts at the heart of the democratic values, rights and protections that enable the achievement of the common good.

The Catholic News also noted that:

The Australian Political Ministry Network has highlighted the impending reduction of the powers of the independent Industrial Relations Commission, which the late Pope John Paul II described during his 1986 visit to Australia as a ‘unique system of arbitration and conciliation’ which helped to defend the rights of workers’.

I represent an electorate in Northern Australia.

Northern Australian electorates tend to be dynamic and progressive yet volatile regions.

Workers know that good times do not last forever and that when growth turns down and skills shortages ease, that’s when the impact of the
Work Choices legislation will bite. Employers will have power to wind back wages and conditions.

Compared to the rest of Australia, Northern Australian electorates have relatively large mining, government and defence sectors and are home to some of Australia’s iconic tourist attractions.

These electorates also have significant indigenous populations.

Indigenous Australians from recent experience could tell you about what is like to have no choice in the workplace.

Barriers such as lack of education, training and employment programs continue to this day.

Experiences of exploited indigenous labour is not a distant story in the family history of many in my electorate.

In fact my electorate is named after a tireless worker for Aboriginal freedom whom instinctively knew that work choices went beyond the hourly rate.

In my capacity as Labor Spokesperson for Northern Australia, I have hosted colleagues and conducted forums at a number of communities and workplaces across the Top End of the country during the last two years.

The protection of workers rights in a society where the nature of work is changing was a theme expressed at the forums.

In the North-West, where mining is the major industry, concern were raised about Fly-in Fly-out workers. Fly-in Fly-out workers extract a salary from the community but do not form part of it, speakers said, the increase of this type of work has led to a substantial reduction in the number of services, education and employment opportunities, as well as reductions in the housing supply in mining communities.

People felt that companies operating within communities should play an active role in that community. Fly-in Fly-out does not contribute to long-term social capital development in Northern Australia. It was thought this policy was having a significant long term cost to communities.

Indeed companies that use Fly-In and Fly-Out have expressed to me their desire to access alternative arrangements if possible.

They know the long term benefits of having a committed workforce close to the security of their family and friends.

This very issue was featured in a story on the 7.30 Report on the ABC a couple of weeks ago.

In Queensland in regions such as Gladstone and Townsville the concern was that whilst population growth and long-term employment prospects were good, these needed to be managed carefully to ensure that the most effective economic benefit whilst preserving a quality lifestyle and environment unique to the region providing for families from early years until retirement.

In the Northern Territory the discussion of employment was centred largely on indigenous employment. Indigenous employment was critical if indigenous communities were to become functional.

What was clear from these forums is that employment is part of a bigger picture.

It involves access to housing, transport, education, health and other social services, plus the opportunity for family commitments both in the short and the longer term.

People working in regional Australia believe in balance. They balance the challenge of working in remote areas often with less access to social and recreational services against good working conditions and benefits and a different lifestyle.

What this legislation does is tilt the balance towards employers, but in regional Australia the tilt is to an even greater degree.

Taking up employment or changing employment in regional Australia more than often not involves decisions about relocating. To another town, to another state. Assessments have to be made about the level of educational and health facilities, distance and time to get to relatives. All matter of extra considerations to be accounted for.

Labor is disappointed that the legislation is not subject to a Family Impact Statement as promised during the election for all family related legislation.

The legislation allows individual contracts to undermine the rights of Australian workers under collective agreements and Awards eliminating
penalty rates, shift loadings, overtime and holiday pay and other Award conditions.

But it is the lack of protection from unfair dismissal that undermines completely the concept of the "Fair Go".

If you are working out bush, away from transport, legal services, with no where to live as you have been kicked out of the company camp, how do they mount a challenge for an unfair dismissal?

Under this legislation they have no protection.

Further the Government has failed to make the case that the laws will create jobs, lift productivity or improve living standards.

As Greg Combet in the Herald Sun noted earlier this week.

"The industrial relations system has not held the economy back. Industrial disputes are at historic lows and there has been sustained productivity and employment growth."

The Australian Community its workers and families want economic reforms that will generate future prosperity.

They do not want the wholesale destruction of the rights that generations have worked so hard to gain and maintain.

Where is the community involvement if the new legislation allows businesses to unilaterally determine the pay and employment conditions of employees, free from discussion and cooperation from unions, collective bargaining, awards, industrial tribunals and workers themselves?

Rather than generating workplaces with harmony and purpose the Legislation will acerbate conflict between workers and employers.

Last week the Leader of the Opposition likened the WorkChoices bill to a nest of termites that would eat away at the foundations of living standards and family security.

"Month by month, year by year, for workers who do not have strong bargaining power, this will erode their rights and entitlements".

Working Australians know that once the AIRC loses its traditional power to set the minimum wage, to alter awards and to approve collectively negotiated wage agreements then it will not only be the weak that will suffer it will be all Australian working families.

Eventually, as jobs are turned over and new entrants to the labour market are employed on agreements then the termites' job will be complete. There will be no choice for Australian workers.

Workers know that once enterprise agreements expire, only five minimum conditions will remain, a minimum wage, annual sick leave, parental leave and an ordinary working hours standard of 38 weeks averaged over a year.

Every worker in this country should be taking stock of what conditions and benefits they now enjoy and consider what they would stand to lose if not protected by an award or a no disadvantage test.

They should be discussing this with their friends and family and think very carefully what will happen in the future?

They should be asking themselves,

How would I go in an open job market in a depressed economy without the support of a union or the protection of the AIRC in its current form?

Next Tuesday 15 November is a national day of action.

I will be in my electorate talking to workers and sharing their views on this legislation.

**Ms ROXON** (Gellibrand) (9.46 am)—

*The incorporated speech read as follows—*

Australian worker to become the Oliver Twist of Dickensian times—asking their employer politely "Please Sir can I have some more?"

The people of Gellibrand have been denied the right to have their views on this bill expressed in debate in the parliament. The Government has deigned to let Labor members table their speeches but are just treating parliament with contempt. Parliament is not meant to be on the books, but in feisty debate in the house itself. And what more important debate could there be? Especially for the area I represent - the heartland of industrial Melbourne, the inner west. The working men and women of Gellibrand deserve better than this bill. They risk being attacked in all directions - losing entitlements, losing protections and losing rights. And all for what? You don't strengthen the econ-
omy by slashing people’s take home pay, making them insecure in their jobs.

The most telling sign about the effect that this bill will have is that the Prime Minister refuses to give a guarantee that no worker will be worse off. We have over 700 pages of law, but no simple sentence guarantee.

The reason he can’t give that guarantee, of course, is because he knows that workers will be worse off because this bill removes the ‘no disadvantage’ test.

At the same this bill slashes the 20 allowable conditions to four minimum conditions.

And contrary to millions spent on taxpayer-funded Liberal ads, you will not be “Protected by Law”, but left to negotiate on your own. Far from being protected by law, your boss can demand that you give up some of your annual leave, penalty rates, sick days and other entitlements. They can even use duress to force you to give these up in your individual contracts.

This bill will reduce the Australian worker to the status of Dickens’ Oliver Twist – asking their employer politely “Please Sir, can I have some more?”

I am particularly concerned about the effect this bill will have on families and young people. Young workers are particularly vulnerable, very little bargaining power and little experience. It is frighteningly easy to imagine young workers forced to sign an AWA with no safeguards, no protections and very low wages. For too many young people, the only way to a foot into the labour market, to get the start in life of a first job, will be an exploitative, unfair contract.

These individual contracts will be like termites’ nests, eating away at conditions over time.

In this chamber, we have all been lucky that our first jobs did have conditions that were genuinely protected by law. But do we want our children forced to have to negotiate for a lunch break, or to have Christmas day off?

- example grandpa Max’s sacking as teenager in the 30s

I am also concerned about families under this bill. Families of school-age children already know that four weeks annual leave is a stretch to cover four school holiday periods. How will families cope when they may be forced back to a mere two weeks of leave a year?

The number one question for Australian families today is how we can get the balance right between the time we spend earning for our families and time we spend being with them and caring for them. This Government has dismally failed to offer any solutions to this issue, one of the most pressing social questions of our time. Now this bill will only make matters worse as working parents will be put into a position where they will struggle to hold on to those entitlements that do enable them to spend time with their kids, like annual leave and penalty rates.

One of the driving forces for me to get into Parliament was my interests in the plight of working women—their conditions, their struggles to balance work and family and removing ongoing discrimination on wages, treatment when pregnant, opportunities to work part-time etc. I thought my time in the parliament would be about how to improve these conditions. In stead, this bill does everything it can to make the current struggle to make ends meet and the days stretch far enough to do everything, even harder. It is wrong, it is regressive and it will harm our communities—not just the individual workers, but the whole fabric of our community.

All their statistics from the past 80 years show us the women have fared better under centralised wage fixing and collective agreements. The individualism promoted by this bill will come at vast expense for most working women.

Just consider what Australian workers are about to lose. By slashing 20 allowable conditions under awards to four minimum conditions, will remove almost all of the safeguards we currently enjoy. Under this proposal the conditions that are at risk of being sold down the river are

- Rest breaks, notice periods and variation to working hours
- Loadings for overtime and shift work
- Annual leave loading
- Paid public holidays
- Allowances, and
- Redundancy pay.
It doesn’t stop there—Australian workers face a future of a declining minimum wage, as well as these threats to minimum conditions. Responsibility for minimum wage rises has been taken from the Industrial Relations Commission and will be given to the new “fair” pay commission. This is the grossest misnomer in the history of Australian government agencies, because there is nothing fair about it.

In setting the minimum wage it will have no regard to CPI increases, no reference to living standards and it not required to look at fairness. In 700 pages, there is no simple “fairness” test in this legislation.

Howard Government always opposed the unions. But it has now taken the axe to the independent umpire, just because it doesn’t like its decisions. They are too ‘fair’—which has become a four-letter dirty word in the Liberal Party.

Honest John asks us to judge him by his record on wages. But what is that record? The Howard Government has opposed every increase in the minimum wage since it was elected. If the Prime Minister had gotten his way on the minimum wage over the past 9 long years, wages would have been reduced in real terms.

This was plainly unfair to Australian workers on the minimum wage, but it was also economically reckless. You can’t cut living standards to stimulate the economy. Until now, the Industrial Relations Commission has been a powerful brake on these mean and reckless tendencies of the Howard Government, but now it is to be given the chop.

But not all hope is lost. In Government, Labor will tear up these laws—there is nothing good about them. They harm families, young people and regular working Australians trying to make ends meet.

The Government pretends it is simplifying industrial relations by creating a unitary system. But this bill doesn’t reveal a unitary system, just a more complex 6th system. There are still too many questions about who will be covered. But one thing is clear—this bill does not present the single national system as promised.

Despite promising to make one simpler, national system, this bill will be creating an even more complex system where businesses and employees will not know whether they are covered by state or federal employment laws.

Because of the constitutional base it seeks to use (through its definition of employer) there is significant confusion and lack of clarity of which types of businesses will be covered and what they have to do to be covered. The problem is the uncertainty over the corporations power of the constitution. By shifting the entire foundation of the federal IR law to this head of power, the government risks building its system on quicksand.

The difficulty is that this power only allows laws that regulate ‘foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth.’ It clearly does not apply to sole traders, partnerships and other unincorporated firms. But it also does not apply to not-for-profit corporations, or other bodies corporate who are not trading of financial corporations.

In several cases, the High Court has found that this is far from a simple test to apply. Through cases involving entities like the Red Cross, football clubs and universities, the court has applied a ‘substantial activity’ test and a ‘purpose’ test. The key issue, as then Justice Anthony Mason pointed out, is that these tests ‘are very much a matter of fact and degree’.

That means there can be no hard and fast rule for determine who may or may not be covered by this new industrial relations regime. In some cases, it will be so unclear that it will take the High Court to resolve the issue. How will this help business? How will small businesses ascertain if they are covered?

The promise of a single national system, without support from the States, is a myth. It will be confusing, messy and will spurn lots of litigation. Instead of finding themselves in the Industrial Relations Commission, small businesses might find themselves in the High Court—with only the Howard Government to blame.

Recent ABS figures have shown that half of our employing businesses are unincorporated—that is 400,000 businesses. They are sole traders, family businesses, partnerships and trusts. They are not covered by the new system.
Neither are incorporated not-for-profits, which employ around 700,000 workers, or local governments which employee 164,000.

The result is that this bill will create a caste system of employment law. Some workers will remain on better, fairer state conditions while others get stuck on the low wage road under the Coalition’s federal system. We will end up with huge differences between wages and working conditions - based not on skill, experience or industry but on circumstance - the number of other employees, the type of activities your business is involved in, even if you are not, which state you live in, what conditions you were covered by when this system started and whether you continue in your current job or change jobs and start from scratch again.

This is bad for workers, but it is also no good for businesses. They will be forced to compete in a race-to-the-bottom, as those employers in the federal system lower their costs by cutting the wages and conditions of their workers, no longer protected by the floors provided by Awards.

Even good bosses will feel pressure to change as they will otherwise loose a competitive edge against those businesses doing the wrong thing. It will become a fight to the bottom on the worst basis—ultimately, does anyone really think we can be competitive with China or India on wages? Surely not.

What happens then to the unincorporated businesses? They can try for the high road, but plenty will feel the pressure to incorporate, just so they can compete with those businesses on Howard’s low road.

Has the Government given serious thought to what this would mean for the rest of the economy? What effect will up to 400,000 new companies have on tax, on liability, on corporate governance regulation?

Corporations are designed to limit liability for those making co-operative investments. They are not designed as a mechanism to give employers a choice of employment law.

This is just a mess—and it is vulnerable to a High Court challenge. If that happens this whole process and the $55 m spent on advertising it will have been a complete waste.

I also want to bust another myth. This bill is not about deregulation, it is over-regulation.

While the Government talks about ‘deregulating’ the labour market, this bill gets the Government into strange new places. This is not deregulation, it is over-regulation.

Government will now have a role in vetting, inspecting and checking compliance of tens of thousands of new agreements (although I note not for the purposes of measuring any disadvantage to the employee!). And despite the shallow rhetoric of choice, the Government will be able to tear up agreements reached between workers and employers if they don’t like what’s in them.

The government has railed against the detailed coverage of awards that cover thousands of people and instead wants to have a say in each and every agreement struck by one individual worker: how does this fit with their “deregulatory” approach?

If a union negotiating on behalf of an employee even dares to suggest that an unfair dismissal provision should be included in an agreement, they can be hit with a $33,000 fine. If this is not the heavy hand of an overbearing government, I don’t know what is. We are talking about cases where an employee simply wants a provision in their agreement that they won’t be sacked harshly, unjustly or unreasonably. But the government can fine their bargaining agent $33,000 just for mentioning it!

With the proliferation of civil remedy provisions—which allow the workplace relations department to commence court proceedings against employees, unions or employers—the Government will also have a much more hands-on role in policing relations between employers and employees. Can we be confident they will, as Maxwell Smart used to say, be used for good instead of evil? Will they prosecute employers doing the wrong thing? Unlikely, as there are now so few conditions they are required to meet. They will even be permitted to force anyone—new or existing employees—on to individual contracts. Demanding someone move on to an AWA is expressly not able to be regarded as duress or coercion. How ridiculous.
There will even be many more opportunities for the Government to take action even where neither parties want a dispute to be litigated. Ham-fisted Government intervention always risks undermining bargaining and negotiation and, as a result, risks escalating disputes.

This over-regulation doesn’t come for free. Aside from the red tape and paperwork it creates for employers and employees, there are direct financial costs to taxpayers. The Financial Impact Statement puts this at $489 million over 4 years. The bulk of this is in ‘Compliance’—in other words the regulators on the beat who will be busily interfering in the business of business.

The only area in the Workplace Relations portfolio that will be cheaper under this plan is the independent umpire, the Australian Industrial Relations Commission.

Compare these to the Keating reforms which focussed on agreement-making and cooperation between unions and employers. It is a system that focuses on getting the right processes so that the system effectively runs itself. It has brought us the lowest rate of industrial disputation in Australian history.

I am stunned by the extremely harsh penalties for unionists simply asking for conditions to be in an agreement. It is outrageous to pretend that this bill allows workers to keep unions involved in their workplace when they can have severe penalties slapped on them for doing the basics of their job. At the same time, as mentioned above, there are no penalties for bosses who coerce their employees on to an AWA or who unfairly sack staff, or use the excuse of a “restructure” of their workforce to dismiss people for no reason.

There are many more reasons that this bill is odious, and speakers before me have covered large numbers of them.

And what really grates on top of all this, what really irks me is the wasteful, misleading, duplicitous advertising campaign the Government is running to promote this package at the same time. Million and millions of taxpayers money is being wasted on a mischievous campaign that promises “protection by law” when the bill does the opposite—it legitimises the removal of rights—all with a price tag of $55 million and growing.

Ms ANNETTE ELLIS (Canberra) (9.46 am)—The incorporated speech read as follows—

Mr Speaker I rise today to speak in opposition to the Workplace Relations Amendment (Workchoices) Bill 2005.

When a bill is presented to the house, the long standing practice is for the Government to allow a gap of at least a couple of weeks before debate is scheduled to begin.

This allows MPs to read the legislation, consult their constituents, consult community groups and prepare their feedback on the pros and cons of the bill.

When this Bill was presented to the house last week, the Government scheduled debate to begin the very next day. Such is their desire to avoid an open and fair debate on the changes.

Such is their determination to ram this legislation through the parliament as quickly as possible.

There are many problems with this legislation Mr Speaker and my time here is limited so I shall only be able to speak about a few of the issues that matter to me and that matter to my constituents.

These include:

- the effect that this bill will have on working conditions in Australia;
- some of the feedback I have received from my constituents regarding this bill;
- the Prime Minister’s motives for moving this legislation in the first place and
- problems with the coalition’s economic arguments used to support this legislation.

Mr Speaker the Industrial Relations Legislation currently before the house will fundamentally shift the balance of power in favour of employers and away from working Australians.

Far from making workplaces fairer, as the amended Workchoices brochure misleadingly suggests, this legislation actively seeks out and removes any semblance of fairness from the IR system in Australia.

Under the proposed changes workers will lose their protection against unfair dismissal.
Prior to the introduction of this bill the government said they would remove protection for companies with fewer than 100 employees. When the bill was finally introduced into the parliament we saw that in practice this bill will remove protection against unfair dismissal for all Australians.

For example, under the changes companies with more than 100 staff will merely need to site ‘operational reasons’ before unfairly dismissing a staff member.

The changes will gut the Industrial relations commission, all but removing its ability to arbitrate disputes and taking away the commission’s ability to rule on the minimum wage.

The Industrial Relations Commission has provided a fair and impartial arbitrator of Australia’s Industrial Relations system for many decades. If this bill is passed that proud and honourable history looks set to end.

Instead the minimum wage will be set by a government appointed and cynically named “fair pay” commission. If that sounds reasonable consider this:

If every submission that the Howard Government submitted to the Industrial relations commission, all but removing its ability to arbitrate disputes and taking away the commission’s ability to rule on the minimum wage.

Since their election in 1996 the Howard Government has tried to take $2600 from the annual pay packet of low income earners in Australia. Under these proposed changes they will control the committee responsible for setting the minimum wage in the future.

I’ll leave it to your imagination to work out what will happen to the minimum wage under the authority of this government appointed commission.

Tellingly, the government’s proposed reforms will remove the word “fair” from Industrial Relations Law. If we look at Section 88B(2) of the current Workplace Relations Act we find that the Industrial Relations Commission:

“must ensure that a safety net of fair minimum wages and conditions of employment is established and maintained.”

Under the new legislation, in the section of the Act which transfers the ability to set the minimum wage from the AIRC to the “Fair Pay Commission”, the word fair is not mentioned, it does not exist.

The Government has spent tens of millions of dollars trying to reassure the Australian people that their workplace rights will remain “Protected by Law” under the new legislation.

This claim is based on the premise that the new law does not directly do away with workplace conditions and does not specifically force people onto individual agreements.

What it will do is remove the current “no disadvantage” test for individual agreements. It will mean that employers can simply write individual agreements removing or reducing workplace conditions that are currently protected.

Of equal concern is the interpretation of “duress”:

Under the new IR legislation; requiring an employee to sign an AWA as a condition of employment will no longer be considered an act of duress.

So employers will have the ability to remove just about any workplace rights they dislike from individual agreements and then offer employment on the condition that new employees sign away those rights.

If a new employee refuses to sign an unfair AWA they don’t get the job.

If an existing employee refuses to sign away their existing conditions, well. They can’t officially be fired for refusing to sign an AWA but how long can we really expect them to last without protection from unfair dismissal? Not long Mr Speaker, not long at all.

Mr Speaker this legislation is nothing short of an all out assault on working conditions in Australian workplaces.

The government can stamp the word “fair” on as many brochures as they want but the fact is that this legislation is inherently unfair and the Australian people have not been fooled.

I have been contacted by many of my constituents who are concerned about the Howard Government’s IR legislation.
While they have been eager to tell me about their concern over the legislation, members of my community have also been eager to ask me this question:

Why?
Why, I am asked Mr Speaker, is the government doing this? When there is no hard evidence, none, that the measures will benefit working Australians.
Why would the Howard Government want to remove the rights of ordinary Australians?
What sort of mind is behind moves to remove the word fair from the Workplace Relations Act?
Why does the Prime Minister want to take away the need for dismissal to be fair, for employers to negotiate with employees in good faith, for them to negotiate at all?
After all, as the Howard Government loves to boast, Australia currently has relatively high employment with a growing economy.
Why then does the Prime Minister want to risk our current good fortune with a massive shake up of the Industrial Relations system?
The answer Mr Speaker is threefold: Because he can, because he believes that he should and most of all, because he wants to destroy the union and labour movement forever.

For the first time, the Howard Government has control of both houses of government.
When the Prime Minister tried to take away workers’ rights back in 1996, the Senate amended his legislation and removed the worst parts of his IR Bill.
Since then the Prime Minister has been waiting for the chance to undo the hundreds of amendments that softened his 1996 IR Bill and now he finally can.
Now he has the Senate in his pocket he can try again and unless there are coalition senators prepared to stand up for workers’ rights, this time the Prime Minister is likely to succeed.
The second reason for the Prime Minister’s desire to push ahead with this legislation is that he thinks he can convince Australians that the changes are a good idea.

Not based on any empirical data mind you, not based on the findings of any reputable research organisation but on what he calls, “an article of faith”.
The Prime Minister has quite literally come out and admitted that these sweeping changes are based on Liberal party ideology, an article of faith.
The third and possibly most compelling reason for these changes is the Prime Minister’s personal desire to see the IR Laws weighted in favour of employers.
The Prime Minister has been dreaming about getting his hands on the Industrial Relations Laws for 25 years. Now his dream is about to turn into a reality for the Prime Minister and a nightmare for Australian workers.
A nightmare in which the clock is wound back to the days when the power of the employer was absolute and workers’ rights were a contradiction in terms.

So, along with proposing amendments that remove unfair dismissal and gut the AIRC, the Prime Minister has taken aim squarely at the Australian Union Movement.
In the final years of the Howard Government the Australian people are going to see from the Prime Minister, that which we on this side of the chamber always knew existed:
Hatred for the unions, hatred for anyone prepared to stand up for Australian workers and an absolute determination to shift the balance of power away from Working Australians in favour of employers.

Until now, cooler heads in the Australian Senate have kept the Prime Minister from attacking Australian workers and the Labour movement quite so blatantly.
Now that he has secured his place in history as the second longest serving Australian Prime Minister, now that the Senate is under his control, he thinks he can afford to be blatant, he now shows his arrogance and he knows that he will be enjoying his retirement long before the damage from these legislative changes is finally measured in full.
In the mean time the Prime Minister is determined to destroy Australian Unions and through
them, the wider Labour movement and he doesn’t care how many Australians suffer in the process. So he has proposed legislation that will effectively stop unions from doing their jobs. Access to workplaces will be tightly controlled by employers.

If an employee wants his union representative to investigate a possible breach of their agreed working conditions, the union representative will need to seek permission from the employer and detail the exact problem they are investigating before they can enter the workplace.

That’s like giving a suspected criminal two weeks notice that you’re going to search their house. By the time the union representative gets to the workplace, if they get into the workplace, I think you’ll find that the employee who made the report will have withdrawn their complaint, if they haven’t been removed for operational reasons that is.

Mr Speaker not content with reducing the ability of workplace advocates and union representatives to help their members, the bill even introduces criminal penalties for discussing the details of AWAs.

Make no mistake Mr Speaker, this legislation will see union representatives sent to gaol for standing up for their members.

Mr Speaker I already mentioned the fact that many of my constituents are worried about their own jobs. What may be surprising is that my office has also been contacted by quite a few people whose careers are already over, who have already retired.

You see they know all too well the value of a workplace delegate whose job it is to stand up for workers.

Holiday pay, sick pay, lunch breaks, weekends: These conditions have all been fought for over the past decades by thousands of Australian workers.

Mr Speaker my constituents appreciate the efforts that Australian unions have put in for their members. They have also seen what happens to workplaces when the balance of power shifts too far in favour of employers.

They can not believe that an Australian Government in this day and age is still clinging to the old class-warfare mindset behind this legislation. The reality is that you do not need to decide whether to back workers over employers or vice versa, in fact you really shouldn’t.

It is quite possible to support business while ensuring workers’ rights are protected. It has been done before and should be done again. A cohesive and cooperative workplace is a productive and safe workplace.

The reforms introduced by the last Labor Government were enacted in cooperation with the Australian Union movement and to the great benefit of both workers and employers in this country.

Mr Speaker in preparing for this debate I had a look at the Government’s argument that taking away workers’ rights will benefit the Australian economy.

One of the government’s key claims is that taking away workers’ rights will increase wages through increased productivity. Let’s examine that argument.

We needn’t look further than an article published in the Age Newspaper on the 8th of November this year. Entitled: “IR Plan won’t lift output,” just ask the Kiwis’, it was written by that paper’s Economics Editor and fairly comprehensively debunks that myth.

First let us have a look at the theory that these changes will increase wages.

The article points out that in 1991, in the middle of a recession, the conservative New Zealand National Party decided the smartest thing they could do was attack workers rights in much the same way as the current Australian Government is attacking them today.

At that point Australian and New Zealand workers’ wages were fairly similar. Since then wages in New Zealand have increased by approximately 7% which is roughly equivalent to a ten cent per hour pay rise each year. That wage increase has largely been attributed to an increasing proportion of skilled professions.
New Zealand workers who remained in unskilled professions have watched their real pay fall by around 2% since then.

In that same time frame Australian wages have risen dramatically by comparison.

Between June 1992 and June this year the Average Weekly Wage for full time workers in Australia has risen by 71.7%.

So much for the theory of wage increases through decreased workplace rights.

What about the claim that the Government’s IR changes will improve productivity in Australia?

Well Mr Speaker another quick glance over the Tasman will reveal that since the New Zealand Nationals introduced their IR package and slowed wages growth in that country, Australian productivity has left New Zealand’s far behind.

The OECD estimates that since 1990 Australia’s productivity has grown at double the rate of New Zealand’s.

Knowing the Howard Government I’m sure that they will respond by playing the man and not the ball. If someone disagrees with them, they love to attack the commentator in an effort to discredit their argument.

So let us look a bit closer to home.

You don’t get much closer to the Coalition than the Australian Industry Group, you certainly won’t find many more pro-industry commentators.

Which is why I was particularly interested in the comments made by Australian Industry Chief Executive Heather Ridout, on the ABC’s Four Corners Program on 26 September this year.

When asked whether there was any economic evidence to support the Government’s argument that individual contracts boost productivity, she replied:

“No...

“Well, I, I’m not aware of direct research to that effect.”

When asked about the government’s claims that removing unfair dismissal legislation will encourage higher employment, she responded by saying:

“You’re not gonna go around putting on more people just because the unfair termination laws have changed”

So if the IR changes aren’t going to make Australia’s productivity grow and aren’t going to make wages rise, if removing unfair dismissal legislation is unlikely to have a marked effect on employment, why is the Government still pushing ahead with their plans?

The answer Mr Speaker once again is simple; ideology.

The government isn’t basing their plans on solid economic theory and they aren’t copying an existing successful system.

They are doing it because for the Prime Minister and his followers, it is quite literally, in his own words, “an article of faith”.

Those of us who believe that empirical evidence and historical good works are more reliable than an economic article of faith know that these changes are not only dangerous, they are totally unnecessary.

The reality is that allowing workers to collectively bargain, allowing an independent umpire in the form of the Industrial Relations Commission and ensuring that the industrial umpire has real power to mediate solutions, has been to the benefit of all Australians.

Australia’s productivity growth, set up through the hard work of the Hawke and Keating Governments, has been to the great benefit of all Australians, including employers.

As real wages and productivity have risen, Australian businesses and their employees have enjoyed the benefits. Now instead of supporting the system that has supported the economy, this government wants to rip it all up.

The Australian people don’t want these changes and Australian workers can’t afford these changes.

Sadly, I doubt very much that the Government will listen to any of our argument.

Well we do not agree with this Government’s approach to workplace reform. This bill deserves only one action—to rip it up.
And that is exactly what we on this side of the chamber plan to do at the first available opportunity.

Mr Griffin (Bruce) (9.46 am)—The incorporated speech read as follows—

Mr Speaker I rise today to speak on the Workplace Relations Amendment (Work Choices) Bill 2005.

I endorse and agree with the sentiments made by all honourable members on this side of the house and congratulate both the Leader of the Opposition and the Member for Perth, for highlighting the disastrous and extreme implications these changes will have.

Let me make the message clear to the people in my electorate of Bruce. Let me make it clear to the hard working families in Dandenong and Springvale, to the commuters and workers living in Noble Park and Glen Waverley and to the nurses, cleaners and apprentices. At the next election and if we are elected we will kill this bill. The bill that is before the house today will be killed. We will rip up this bill and throw it in the bin where it belongs.

This bill is the best example of an extreme and arrogant government that is out of touch with the workers of this nation.

We have heard from the Prime Minister, the Treasurer, the Minister for Employment and Workplace Relations and every member on that side of the house that it is about higher productivity and about the economy.

But in fact it is the long held dream of the Prime Minister to impose his draconian 19th century workplace legislation on the people of my electorate, which will turn their lives into a living nightmare. The Prime Minister let the cat out of the bag earlier this year at the Liberal Party Federal Council. He said in his own words, industrial relations is just an article of faith for him.

It is not a matter of reason; it is a product of extreme ideology. It is because John Howard has been obsessed with industrial relations laws for almost 30 years.

His comments on the public record from as far back as 1979 shows what his real agenda has been.

Take for example the Prime Minister in 1979: ... penalty rates ... a ridiculous impost.

The Prime Minister in November, 1990, on holiday loading: ... a heavy and ludicrous impost.

The Prime Minister in April, 1992: ... penalty rates, the length of the working week, overtime, holiday loadings and all of those things that are holding back the needed flexibility in Australia’s industrial relations system ought to be matters for negotiation between employers and employees.

In November, 1990: I argued for the forgoing of the holiday loading ... it’s a fairly illogical benefit.

Attacking Industrial Relations safeguards has long been the Prime Minister’s tired old dream and yet he refuses to debate his unpopular laws with the Leader of the Opposition. It is over 20 days since the Leader of the Opposition challenged the Prime Minister to a nationally televised debate on IR—a challenge he has not had the courage to meet. He is too gutless to stand up to the Australian people and tell them what his so called reforms will do to their wages, working conditions and living standards.

The Prime Minister did not go to the Australian people at the last election and inform the voters he was going to attack their job security, take home pay, working conditions and living standards.

Instead he sits and hides behind the massive $55 million taxpayer-funded advertising campaign. This is more than the entire spending on the federal election campaign by all the parties at the 2004 election—to fund Liberal Party ads to try to change people’s minds about this extreme legislation. Never in Australian history has there been such a partisan abuse and use of public funds. These ads are not about providing information. What they provide is disinformation. But $55 million is just a small drop in the ocean to the Howard Government. Australian employees and their families know what $55 million can get them:
The annual wage of nearly 2200 Australians on the Minimum Wage;
The annual wage of nearly 1700 Registered Nurses;
More than 35,000 average monthly mortgage payments; and
More than 1.8 million Bulk Billed GP consultations.

Then there is the initial version of the IR leaflet that was pulped because it failed to have ‘fairness’ on the cover. Nearly half a million copies of a 16-page Work Choices booklet at a cost of over $152,000 were pulped. The copies of that booklet sit in warehouses because the government’s research says that that taxpayer paid for propaganda is no longer fooling the Australian worker.

If media reports are correct and the Prime Minister intends to recommence advertising when his industrial relations changes pass through the Parliament, the budgeted $55 million may go even higher.

The Prime Minister claims that the advertising campaign provides information to the Australian public on the Government’s extreme industrial relations changes are simply untrue. The advertisements claim conditions and entitlements, such as public holidays and annual leave loading, will be ‘protected by law’. But under the Howard Government’s extreme industrial relations changes Australian employees have got nothing to look forward to other than having their wages slashed, their entitlements stripped and their conditions removed.

If the Government’s own submissions to the Australian Industrial Relations Commission had been adopted since 1996; the Minimum Wage would have been reduced in real terms by 1.55 per cent. The bill repeals Section 88 of the current Act, which requires:

… fair minimum standards for employees in the context of living standards generally … [and]… inflation… to be taken into account in the setting of the Minimum Wage.

This change will mean that employees dependent upon the Minimum Wage will have their wages reduced in real terms.
cause he wants a drop in the Minimum Wage in real terms.

Under the award system, Australians have 20 pay and condition standards that are protected by law. When this piece of legislation is passed, they will have just five.

When we saw the introduction of the legislation by the Government and when it dropped its 1200 pages on the table, it became immediately clear not long after that there are a number of serious problem with this legislation:

- the duress point where it is not duress to require an employee to sign as a condition of employment an AWA.
- The “operational requirements” which broaden the scope of unfair dismissal and opens the potential for all unfair dismissal rights to be taken away. It takes rights against unfair dismissal away from almost four million Australians and compromises all the rest. It allows employers to dismiss workers with no compensation simply by bringing in the lawyers and restructuring the business.
- the question of individual and collective agreements being registered at the Office of Employment Advocate without requiring a check on the genuine consent of an employee, or employees generally.

This is an arrogant out of touch government who neither cares nor understands the needs of working people.

In fact the Prime Minister has refused to guarantee that the ANZAC Day Public Holiday could not be traded away under his extreme industrial relations laws.

In the Parliament the Prime Minister was asked if he could:

‘guarantee that no individual employee will be forced to work on ANZAC Day as a result of the government’s extreme industrial relations changes?’

Mr Howard failed to commit to any such promise stating instead:

‘There are thousands of Australians now who are required to work as part of their jobs on public holidays.’

This stands in stark contrast to the Prime Minister’s comments during an interview with Neil Mitchell on 29 July 2004, when the Prime Minister was stated:

Mitchell: Is ANZAC Day sacrosanct as a public holiday?
Prime Minister: Absolutely.
Mitchell: So it won’t be up for negotiation?
Prime Minister: Absolutely not.

Prime Minister John Howard must heed the calls of the church and community leaders such as the RSL’s National President, Major General Bill Crews.

Major General Crews is reported as stating that the RSL will resist any move allowing ANZAC Day to be offered as a trade off:

‘We will want safeguards for employees not to be coerced. They should not be in a position where they are obliged to trade ANZAC Day off.’

ANZAC Day is one of Australia’s most important national occasions. It not only marks the first major military action fought by Australian and New Zealand forces during the First World War but is a day when all Australians can reflect on the many sacrifices made by generations of Australians in times of war.

It has been commemorated as a public holiday in all states in Australia since 1927.

The Prime Minister must give a guarantee to Australian workers that the ANZAC Day Public Holiday will be preserved under his extreme industrial relations changes and that people who wish to observe ANZAC Day will not be forced to work.

Australians do not want this law. They do not want to wind the clock back to the 19th-century model of industrial relations, where employers enjoyed absolutely unchallenged power over employees enforced through individual contracts. Every published opinion poll points in the same direction—two in three Australians oppose this legislation.

Let me turn to some examples that have been provided by the ACTU:
Unfair Dismissal

Sacked during employer’s temper tantrum

Natalie worked at a warehouse, which employed ten people for about three years. She started as a customer service officer and was promoted to accounts manager and then national sales manager, earning around $39,000 pa full time, working around 50 hours a week. She was often praised for her performance. One Monday, Natalie came to work early for a staff meeting with four other staff, including the owner of the business. Natalie mentioned that warehouse staff were reluctant to work with a particular product as it contained a toxic chemical. The owner became angry and threw a glass across the table, which hit Natalie in the chest. The owner then screamed, “Get out and don’t come back” and swore at Natalie in front of the other staff. Natalie was able to negotiate a settlement of six weeks pay compensation.

Dismissed due to child care commitments

Suzy, 35 years old, was a clerk at a local wholesale company for over a year. She worked between 10 am to 4 pm, which suited her child care arrangements. Suzy’s employer asked her to extend her hours to 5 pm. When she said she couldn’t because of the high cost of after school care, Suzy was told she had to do the extended hours or leave. She refused and was dismissed.

AWA

Threatened with Dismissal if did not Sign AWAs which removed weekend & public holiday rates

Heather was a casual cleaner in a small country town, working regular part time hours for over two years. Her employer presented her with an AWA individual contract that took away any entitlement to penalties such as weekend rates and public holiday rates. Heather was told if she didn’t sign the AWA she would lose her hours or be dismissed. She was worried that she would not be able to find other work in the town, so she signed the AWA.

Joan, 58 years old, had worked as a cook for nearly ten years, early morning to lunchtime Wednesday to Sunday. Joan’s employer handed her an AWA individual contract to look at overnight and told her if she refused to sign it she could look for another job. The AWA provided no sick or annual leave, no public holiday penalties, and she would have to be available on call seven days a week until 10 pm.

Sacked for not signing AWA

Jared, 19 years old, was a casual security guard working full time hours for two years. He was called into a meeting with his employer where he was given an AWA individual contract and told he had to sign it. Jared asked whether he could read the AWA and seek advice on it. His employer refused his request, threatened him and then sacked him. Jared then agreed to sign the AWA and got his job back.

Larry, in his 30s with three kids, had been a builder’s labourer with his company for around three months before he was told to sign an AWA, which had rates of pay lower than the right award rate, no paid leave and no allowances. He was the only one who didn’t sign the AWA, and was told not to come in the next Monday. The union started an unfair dismissal action and the company reinstated him. When Larry returned to work he was given different tasks and isolated from work mates. Eventually Larry suffered severe stress and had to stop work.

People like those examples I have just read out are beginning to understand how un-Australian this bill is. How it threatens aspects of the Australian way of life that they have held sacred for generations—fair minimum wages for all workers, decent working hours so families can organise to spend time together, penalty rates and shift loading. This is now at risk; so many of these provisions will be eroded by the bill.

He is out of touch and out of control. Nothing in the legislation provides Australian workers with what they have had for 100 years—100 years of having an independent umpire to preside over the issues between them and their employers.

There is nothing in this legislation that provides protection to an ordinary worker by guaranteeing them access to the assistance of a union official when they require assistance. What they have done is criminalise ordinary union activity. Many of these activities could attract fines of $33,000 for both the employer and the employee.
When this legislation is passed, we know that the real consequences will not be immediately obvious. Nothing is going to happen overnight.

But slowly, month by month and over the next couple of years, the hard fought conditions that workers have been used to will be eroded underneath them. Australian workers who do not have strong bargaining power will see the steady erosion of their rights and entitlements, and those who do have strong bargaining power will be fewer and fewer in number.

One by one, firm by firm, the workers will find themselves in a place where their ability to earn a living wage, where large numbers of them will join that phenomenon they have in the United States. The phenomenon of a mass based working poor: workers who cannot provide themselves with a home that they own themselves. There will be workers without the capacity to exercise choice for their kids’ education.

This is a shameful piece of legislation from an extreme out of touch and out of control Government.

Mr Speaker I am proud to stand here today, as the member for Bruce and as an ex-union official. I am proud to stand here with my colleagues and fight against the most draconian and unfair attack on workers rights that this country has ever seen.

The SPEAKER—The question is that the bill be now read a second time.

The House divided. [9.46 am]

(The Speaker—Hon. David Hawker)

Ayes.........  79
Noes...........  61
Majority.......  18

AYES

NOES
House of Representatives Thursday, 10 November 2005

McClelland, R.B.  McMullan, R.F.
Melham, D.  Murphy, J.P.
O’Connor, B.P.  O’Connor, G.M.
Owens, J.  Pilbersk, T.
Price, L.R.S.  Quick, H.V.
Ripoll, B.F.  Roxon, N.L.
Rudd, K.M.  Sercombe, R.C.G.
Smith, S.F.  Snowdon, W.E.
Tanner, L.  Thomson, K.J.
Vamvakinou, M.  Wilkie, K.
Windsor, A.H.C.

* denotes teller

Question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr STEPHEN SMITH (Perth) (9.48 am)—I ask leave of the House to move amendments (1) to (7) as circulated in my name.

The SPEAKER—Before leave can be granted, I have to rule that amendment (6) circulated in the name of the member for Perth is not in order as it is an ironical amendment. There are precedents for amendments being ruled out of order on this ground, and they are listed on page 367 of the House of Representatives Practice.

Mr STEPHEN SMITH—Mr Speaker, on a point of order: are you seriously suggesting that, in the context of this bill, it is ironical to seek an amendment which changes the title of the bill to the Workplace Relations Amendment (Cut Wages, Cut Conditions and Entitlements, No Fairness, No Work Choices) Bill 2005? It is a fact.

The SPEAKER—The member for Perth has asked me to rule on this point of order. My ruling stands.

Mr STEPHEN SMITH—Mr Speaker, further on the point of order: are you seriously suggesting that to change the title of the bill to the Workplace Relations Amendment (Cut Wages, Cut Conditions and Entitlements, No Fairness, No Work Choices) Bill 2005 is, like ’Honest John’, an ironic expression?

The SPEAKER—The member for Perth knows that I have ruled. He is seeking leave to move the other amendments. Is leave granted? Leave is granted to move all amendments except amendment (6).

Mr STEPHEN SMITH—I move:

(1) Schedule 1, page 4, (line 1) to page 658 (line 25) -
omit the Schedule

(2) Schedule 2, page 656, (line 1) to page 665 (line 18) -
omit the Schedule

(3) Schedule 3, page 666 (line 1) to page 673 (line 27) -
omit the Schedule

(4) Schedule 4, page 674 (line 1) to page 684 (line 10) -
omit the Schedule

(5) Schedule 5, page 685 (line 1) to page 687 (line 28) -
omit the Schedule

(7) Clauses 2 and 3, page 1 (line 7) to page 3 (line 8) -
omit the clauses.

Mr Speaker, in a different context and with more time I would have pursued that point. The effect of my amendments (1) to (5) and (7) kill the Workplace Relations Amendment (Work Choices) Bill 2005. They do what Labor will do in government: kill the bill. What do we find today? We find the government arrogantly pursuing its total control of the House and the Senate to pursue an extreme ideological agenda that we heard nothing about in the course of the election campaign. This bill has now been guillotined, and we have been given one hour for consideration of the detail. The Leader of the House tried to justify the monstrous procedural abuse by saying there had been a
lengthy debate. We get one hour for the committee stage debate. This 687-page bill takes up 215,346 words, and the 365-page explanatory memorandum takes up 240,805 words. So the government is saying to the Australian people that legislation that goes for 1,252 pages and 456,151 words can be considered in detail in one hour. Why is that? Every page you turn, every word you see and every paragraph you see nails down with a very firm hammer and sharp nail the wages, the entitlements and the conditions of Australian working families.

When the government had Peter Reith, alsatians and balaclavas, there was more consideration of the detail. I know the current minister is not your alsatians and balaclavas type—he is more your opera glasses and poodle type—but he does follow his instructions. Even when we had alsatians, balaclavas and Mr Reith, there was more consideration of these matters. If we had plenty of time to consider the detail, we would find on page 29 of the bill that proposed section 7J, ‘fair minimum standards’ has been taken out of the criteria for the setting of the minimum wage. The bill no longer requires that the minimum wage be a fair minimum wage. That same provision takes out the requirement that the commission have regard to living standards and inflation; in other words, the minimum wage will fall in real terms.

At clause 104(6) of the bill, we find the duress clause. It is open to an employer to browbeat, bully, intimidate, ‘thug’ or threaten an employee and make an unfair AWA a condition of employment without that being regarded as duress. We find annualised hours at page 100, with the government pretending that there is a 38-hour week. It is annualised over a year and additional hours can be taken into account, destroying the notion of a 38-hour week.

At proposed section 101D, we find that the minister has given himself the power to determine what may or may not be prohibited content in an agreement, ensuring that, if someone tries to put in an unfair dismissal arrangement or tries to prohibit an AWA, that is regarded as prohibited content—and any other matter which the minister decides.

Mr ALBANESE (Grayndler) (9.53 am)—I second the amendment. I am pleased to get the opportunity to actually participate in this debate, given the outrageous gagging of the most important legislation since I have been elected to this House. This is in fact perhaps the most important legislation to come before this parliament since Federation, because it changes the very nature of Australia. It changes the nature of a fair go. We are a tolerant society. We are a society built on cooperation and built upon balance, and there is no balance in this legislation. This legislation would suggest—

Mr Tuckey—Mr Speaker, I raise a point of order. The purpose of the committee stage is to consider the bill in detail. That is a fairly clear instruction to this parliament. The second reading debate has been acknowledged as a process for rhetoric. I believe the member should be asked to address those issues in the bill that he wishes to discuss in detail.

The SPEAKER—Order! I will rule on the point of order. The bill is being taken as a whole. The member for Grayndler is in order.

Mr ALBANESE—Thanks, Mr Speaker. Our amendment would kill this bill. The amendment that I am seconding would delete all words in the bill, effectively, except the title. We attempted to change the words of the title to make it a more honest one, because there are no work choices as a result of this. As a result of this legislation, decent,
hardworking Australians who keep this economy going will have their wages and conditions cut, because they will be placed in a situation whereby they will agree to have their wages and conditions cut, have their hours increased, lose their overtime, lose their leave loading. They will be put in a position whereby the employer can say: ‘You cop this, or I’ll find someone else who will.’

There has been no economic case whatsoever put forward in support of this bill. There is not a serious economist in the land who argues that this is a key to productivity. We should listen to the OECD and to what serious economists are saying about the key to economic growth and productivity, and that is skills. It is a lack of skills and a lack of investment in infrastructure that are holding this economy back. This is essentially a bill predicated upon an ideological obsession by a Prime Minister stuck in the past. It is an obsession that says we need to compete with India and China on the basis of wages. I say that what we need is a high-skill, high-wage economy for Australia. That is why Labor have pursued these amendments so vigorously, and that is why we will pursue these amendments for the next two years.

You know that there is no basis for this legislation because of how desperate the government has been prepared to be in promoting it: $55 million of taxpayers’ money wasted in a Liberal Party propaganda exercise. Perhaps the best exhibition of that is in the two booklets. There were almost half a million copies of the booklet that had to be pulped so that they could add the word ‘fairness’ into the cover page. It also had to be pulped—and the Prime Minister gave it away in question time yesterday, when he said there was ‘content error’ in the booklet. There was content error in a number of places that suggested there could be fairness of bargaining, that had to be taken out because it simply was not true. It is no wonder that 5.8 million of these booklets remain in a warehouse, because the Australian people have rejected this Liberal Party partisan propaganda for the absolute nonsense that it is.

This is just a product of the government having the numbers in the Senate. We know what they think of workers. We saw the dogs and balaclavas on the waterfront. This is the legislative equivalent of putting dogs and balaclavas into every workplace in the country, because that is what this government is about. That is what ‘Mr Bean’ here is about: stripping the wages and conditions of ordinary workers. That is an ideological obsession. We need a government concerned about the future—(Time expired)

Mr TUCKEY (O’Connor) (9.58 am)—Mr Speaker, considering the fact that you have ruled that this can be a broad-ranging discussion, I am anxious to enter the debate and, more particularly, to rebut some of the remarks that have just been made by the previous speaker. I will start with the comments by the Manager of Opposition Business. She apparently got her arithmetic right this morning. But when she was addressing the Australian people on the ABC this morning she said she had another 50 opposition MPs who were yet to get the opportunity to address this parliament. How you can take the number of people who spoke and then deduct it from a total of about 60, I just do not know. She is clearly arithmetically challenged.

Mr Fitzgibbon—Mr Speaker, I raise a point of order. How could this possibly be relevant to the bill being debated in the House today?

The SPEAKER—As I have already ruled, this is a debate about the bill as a whole.

Mr TUCKEY—The constant reference by members opposite to dogs and balaclavas fails to mention that throughout the negotia-
tion former minister Peter Reith had to have 24-hour-a-day police protection. He could not even go to the movies without it. Where was the assessed police decision on that? We do not ring the police and say, ‘We want protection.’ The police ring us and say, ‘We have information that says you need protection.’ So those opposite should not mention that or cry crocodile tears about the amount of time allowed for this debate.

The Leader of the Opposition is now present. I can still see him standing on this side of the House and, as recorded in *Hansard*, saying: ‘If you’ve got the numbers in this place, you may as well use them.’ So let us not have all this hypocrisy about the processes of this place. As listed on the *Notice Paper*, the next matter for debate in this place is the terrorist legislation. There was not one question from the opposition benches yesterday asking the relevant minister to update the House on the recent tumultuous events. No—the first question in the chamber yesterday was a silly repetition of: when is the Leader of the Opposition going to get a chance to appear on television to keep running stories like ‘Pensioners are going to get a reduction in their pension’?

When the opposition talks about pulping paper, how much taxpayers’ paper has been used by the member for Cowan and others sending out letters scaring the hell out of pensioners? Everybody in this place knows that the pension is never reduced. It will go up, either according to movements in the CPI or because it is a percentage of male total average weekly earnings, MTawe, and male total average weekly earnings have risen. Considering the prosperity that has been generated by this government, the age pension will go up again. The Howard initiative of linking the age pension to MTawe has added something like $60 a fortnight to the pension, which would not have happened under Labor’s process of adjusting the pension according to retrospective movements in the CPI.

I was questioned this morning about an aspect of this bill that gives an employer the right to request a doctor’s certificate if people take a day off. The immediate inference by members on the other side is that that becomes an obligation. Of course it does not. As has been the case in the past, every day thousands of employers get a phone call from an employee who—you can hear it on the phone—has the flu or whatever and the employer will say, ‘That’s a shame. Have a rest.’ Some employers will even ring the next day to see how the employee is progressing.

The biggest employer is the Australian taxpayer. When 400 workers on a railway project in WA ring in on the same day and say they have the flu so that they can screw some more dollars out of the Australian taxpayers—other workers—you need a provision of that nature. You need a response for employers when they get outrageous ‘blue flu’ practices that are a direct burden on the Australian taxpayer—the Western Australian taxpayer, in particular. Members opposite do not care about the taxpayers, workers who pay tax—all they are worried about is their own jobs, their preselection. *(Time expired)*

Mr BEAZLEY (Brand—Leader of the Opposition) (10.03 am)—I support the amendments to the Workplace Relations Amendment (Work Choices) Bill 2005 moved by the honourable member for Perth, which, if carried, would destroy this bill—would put this bill in the bin, where it belongs. The Prime Minister has been waiting for this day for three decades, the day when he can finally impose his extreme ideology on Australian families. Well, Prime Minister, we are united in the war on terror but we are against you in your war on Australian workers.
In the past few days, this House has been debating one of the most important pieces of legislation I have seen in 25 years in public life. I have seen some pretty rotten laws passed in this place, particularly over the last decade, but nothing like what the House is now considering—nothing so fundamentally out of touch with basic Australian values, nothing targeted so deliberately to undermine the security of Australian families, nothing so deceptively handled by a government that now thinks it can get away with anything. The government calls it Work Choices but it is about false choices. We are told we must choose between prosperity and security. We are told we must choose between protecting fairness in our industrial relations system and going down John Howard’s low-wage, low-skill road. We are told we must choose between competing with India and China or not being competitive at all. We are told we must choose between flexibility and fairness. We are told we must choose between protecting workers’ rights and protecting their jobs. We are told we must choose between keeping our jobs or spending time with our families.

What they tell us is wrong. These are lies. They are false choices, from an extreme, outdated ideology that other nations have tried and rejected. They say we must knock down just about every barrier to being able to sack workers. They say they must take away in 99 per cent of Australian workplaces the rights of workers to be protected from unfair dismissal. They say employers should have the right to boot out any workers for any vaguely defined ‘operational reasons’. They say employers should have the right to hand over a contract that, at the stroke of a pen, strikes out basic conditions that generations of Australians have fought for, for 100 years—conditions like penalty rates, overtime, shift rates and redundancy pay. They say Kevin Andrews should have the power to intervene in each and every employment agreement in Australia by prohibiting anything he does not like. They say the only security is a strong economy, as if our only choice is either a strong economy or decency and fairness in the workplace.

We on this side of the House have a different set of values. We do not think it needs to be dog eat dog. We think you can have a strong economy and protect ordinary Australians. We believe prosperity can be shared—that Australia can be strong and fair, that employers can make profits while employees are well paid, that you can have balance in your workplace and an independent umpire to protect your rights: the right to reject unfair contracts that undermine your pay and conditions and the right to bargain collectively.

The government has to give us these false choices because it knows that, if Australians are given the real choice, they will say no to this extreme bill. If it were honest, it would tell people that it wants to abolish unfair dismissal rights. If it were honest, it would tell us that it wants to make employers more powerful while it weakens workers, that it wants to dismantle awards and that it wants to wipe out rights to redundancy pay, four weeks holiday, regular working hours and penalty and shift loadings. But the government is not honest; it does not have the guts. So it spends $55 million carpet-bombing the nation with lies, with ads that give no mention of what is being taken away, giving a misleading impression that it is giving more.

I have said this to the Prime Minister this week and I will lay down the challenge again: meet me on prime time television in this nation and let us have this out; let us debate this bill and talk about what is in Australia’s national interest. You did not tell people about these extreme changes before the election, so let us have the debate now. Let the Australian people decide who is on
their side. Do not hide behind your $55 million of deceitful, lying advertisements. Come out and have a real debate about it. We are waiting. (Time expired)

Mr McARTHUR (Corangamite) (10.08 am)—The Leader of the Opposition talks about dishonesty in the Workplace Relations Amendment (Work Choices) Bill 2005. I draw his attention to the waterfront dispute; members opposite have been talking about it. The Reith legislation of 1996 brought about changes in productivity through those improvements on the waterfront. The waterfront is now reliable because of those important changes that the Labor Party and the Hawke-Keating government could not implement. That would be fully understood by the member for Batman. As a former President of the ACTU, he tried to bring about change on the waterfront and he failed miserably. Those changes were made only by the Industrial Relations Act 1996.

Members opposite talked about unfair dismissals. Unfair dismissals under current arrangements cost employers between $7,000 and $10,000 in go-away money. Everyone in the field understands that. We put forward very clearly that we would get rid of that pernicious legislation that costs jobs. People will not put additional employees on because they know that they will be up for $10,000.

I put on the record the remarkable performance of the minister at the table, the Minister for Employment and Workplace Relations. The legislation has been prepared—this document of over 700 pages—over a six-month period. Not one member opposite has found any difficulty with this legislation, this prepared document, and I have read most of the speeches. The detail of the proposition that has been put forward stands up to very great scrutiny. As the minister would attest, no members opposite have been able to identify any problem. They have had their union lawyers go through it as best they can and they have found nothing wrong with it. I commend the minister for his devotion to the task and for arguing the case in a sensible, coherent manner—unlike those members opposite, who are full of union rhetoric going back 100 years.

I emphasise the AWA part of the legislation. This is a fundamental change, as would be known by members opposite and members of the government who have supported this legislation so strenuously. AWAs will be easier for both employers and employees. Agreements will commence at the time of lodgment; once the Office of the Employment Advocate receives them, as happens in most other workplaces, these agreements will then become operational. Before their lodgment, the Office of the Employment Advocate will make sure that these agreements comply with the fair pay and conditions standard, if asked to check them out. These AWAs will be binding agreements, so employers and workers can have confidence that these agreements will be adhered to. Again, this is a major step forward in providing more flexibility. Penalties will apply for varying or terminating agreements without the agreement of the worker.

I draw the attention of the House to the details of the six types of agreements. There are employee collective agreements, negotiated between employers and employees in any business. Persons other than unions can now represent employees in negotiations. We can take out the 23 per cent of the workforce represented by unions, 17 per cent of which is in the private sector. I draw that to the attention of a number of those opposite who have represented the unions over the years. I just emphasise the point that they now represent only 17 per cent, as the member for Throsby and the member for Batman might now understand.
Mr McARTHUR—Only 17 per cent of the private sector workforce is part of your crew. They have left. They have walked away in droves, as they no longer want to be part of the union movement. There are also union collective agreements between employers and unions representing employees in the workplace. Then there are Australian workplace agreements—and I think this is the very important aspect of the bill—which are between the individual worker and the employer. The employee may appoint an agent to represent his or her point of view, if they so desire. There are union greenfield agreements for new businesses; if a business wants to set up on a greenfield site, it should be able to set up such an agreement. Also there are employer greenfield agreements with new employers. Again, we cannot just shift across the old sets of conditions. There are also multiple business agreements, particularly as they affect franchises. The fair pay and conditions standard will apply through the life of these agreements, which can extend for five years. (Time expired)

Mr WINDSOR (New England) (10.13 am)—I would like to foreshadow an amendment that is circulating in my name. It relates to the unfair dismissal provisions of the bill. For anybody who has not had time to get to it, it is on page 356 at line 8, schedule 1, item 113. The amendment puts in place what the government has introduced into this place on a number of occasions. It replaces ‘100’ with ‘20’. Essentially, it means that the exemptions from the unfair dismissal provisions would only apply to small businesses that employ 20 or fewer employees. I do not believe that the government has a mandate to change that number to the 100 that is currently in the bill.

I would like to read a couple of excerpts from a speech by the current Minister for Employment and Workplace Relations on his previous legislative changes that were knocked back in the Senate. On that occasion, the minister said:

This bill amends the Workplace Relations Act 1996 to protect small businesses with fewer than 20 employees from the costs and administrative burden of unfair dismissal claims.

I have always supported that in the House, and the minister would be aware of that. But I am very disturbed that there has been an increase to 100 and that there are also provisions in the legislation for over 100 where the larger businesses can argue there is structural or economic change. The minister went on to say:

Over 96 per cent of Australian businesses are small businesses and around half of Australia’s private sector workforce is employed by small businesses. To ensure that the small business sector continues to contribute strongly, our workplace relations system must be responsive to its needs.

The current unfair dismissal laws place a disproportionate burden on small businesses.

This is a very important point.

Most small businesses—and these are the minister’s words; he would recall these words—those businesses under 20, do not have human resource specialists to deal with unfair dismissal claims. I believe that the government should consider this amendment seriously. There was no mandate taken to the last poll to increase this number to 100. I believe the government does have a mandate to address the issue of businesses under 20, the small business issue, and the minister’s previous speeches have indicated the reasons why the government introduced that legislation on a whole range of occasions. So I would ask the minister to seriously consider this.
There has been a lot of propaganda spread about on both sides, in my view. I believe the government has done the wrong thing with this massive spend on advertising. But on both sides of the debate there has been a lot of propaganda. I took the time to survey my electorate as to the processes involved and what people actually thought of the changes. I can say that, in terms of people coming into my office, the only real approaches I have had over the years have been from small, family owned businesses that believe they should have the right to hire and fire without the unfair dismissal provisions. These are small businesses. I have not had larger businesses coming in; they believe they have the capacity to handle those things themselves.

The survey from the electorate of New England indicates that 77 per cent are opposed to the current changes and have expressed concern, 20 per cent are for the changes and three per cent are undecided. I have also had probably the second or third highest number of letters or emails on this particular issue, with something like 1,300 communications—and over 90 per cent of those would be opposed to the legislative change. The minister would well know that I have been supportive of the government’s attempts to assist small business in relation to the unfair dismissal provisions, and I always will be. But, as I said, I am concerned that the number has been changed and I would ask that the government revert to their original, mandated number of fewer than 20.

Mr FITZGIBBON (Hunter) (10.18 am)—I want to join the many in this place who have expressed their regret at the way in which the Workplace Relations Amendment (Work Choices) Bill 2005 has been guillotined and the way in which so many people on our side of the House have been denied an opportunity to make a contribution to the debate on what is probably the most important bill in this place for at least the last decade.

This is a bill backed by no economic evidence on the productivity front whatsoever. It is a bill for which the government has no mandate from the electorate, and it is a bill best described, simply, as unfair. I misread the Prime Minister on this one. I thought he would put out his basic framework in May of last year, wait for an opportunity for the debate to filter through the community and then take a step or two back, claiming to be the Prime Minister of great consensus and claiming to have taken a conciliatory approach to the changes. But I was wrong. Indeed, I was shocked to see the bill as it was introduced to this place and to learn that the Prime Minister had gone even further than he had indicated he would do in May of last year.

We were all surprised to see the removal from the minimum wage-setting process of any concept of fairness, something that has underpinned our system since 1907 and the Harvester judgment. We were all very surprised to see the clause which allows the minister of the day to tear up any part of an agreement which does not suit his own political agenda, and we were all surprised to see such harsh jail penalties for bargaining agents who are participating in a manner which, again, does not suit the ideological approach of this government.

Having said that, I want to zero in on a very important aspect of the bill, relating to some matters raised by the member for New England. This is a government that purports to be the government of small business. It talks a lot about small business but rarely does it actually do anything for small business. I have been listening to the debate on this bill very closely, including the contributions from the other side—including the contribution from the Prime Minister and the contribution from the Minister for Employ-
ment and Workplace Relations—and not once have I heard any acknowledgment that there are difficulties in this bill for the small business community. They should acknowledge those facts and they should be prepared to come into this place and debate them.

I want to run through some of them. The government talk about the abolition of unfair dismissals, but the reality is that the abolition of unfair dismissals will leave employees with only one choice, and that is to pursue unlawful dismissal cases—which will prove to be a nightmare for small businesses. The government have not acknowledged the fact that they have removed the right of small businesses to seek remedy under state industrial law. This is something that has been happening for decades in this country: small businesses entering into contracts to supply goods and services to larger firms have been able to seek remedy for unfair contracts in the various state industrial relations commissions. That right will be removed under this bill.

The government has not acknowledged how this bill will impact upon the roughly 35 per cent of small businesses in this country which have employees employed under state awards. No wonder it has given them a five-year transition period; they will need every minute of those five years to deal with the red tape compliance burden of that change. No acknowledgment of that has been made whatsoever.

Nor have the government acknowledged this very important point: competitive advantage is rife in the small business sector. The minister fails to acknowledge that there will be some small businesses that exploit the total absence of protections for employees in this bill. The overwhelming majority of small business people are good people and good employers, but unfortunately society has not changed—I have not noticed it change much in recent months. There will be employers who do the wrong thing. Those who do the wrong thing will have a significant competitive advantage over the majority who do the right thing, and the government should acknowledge that.

The government should not be focusing on the issues that are not paramount to small business. I talk to small business on a regular basis. Small business is concerned about the growing burden of red tape generated by the government, despite their promise in the lead-up to the 1996 election to reduce red tape. It is concerned about the growing debts to the ATO, which have been GST induced. It is concerned about the government’s failure to address the inadequacies of section 46 of the Trade Practices Act. The government need to get their priorities right. (Time expired)

Mr McMULLAN (Fraser) (10.23 am)—I want to join with those who regret the fact that the guillotine has prevented us from making a more comprehensive contribution, but I take this opportunity to raise some of my concerns about this very unfair legislation. My concern is that the interaction of a number of clauses and provisions in the Workplace Relations Amendment (Work Choices) Bill 2005 will have a compounding effect, driving the standards of employment conditions in Australia down to the minimum standards.

The most fundamental change is the removal of the no disadvantage test. This is not a coincidence: the Howard government wanted to do this in 1996. They often say in this House, ‘You thought that the Labor opposition foresaw drastic consequences if the 1996 legislation were to be passed, but the outcome wasn’t as bad as they predicted.’ That is because the 1996 legislation was not passed; it was amended substantially, and the most fundamental amendment was the intro-
duction of the no disadvantage test. That being taken away is the most fundamental change. Look at its interaction with the implications of the clauses that apply on the expiry of agreements: the removal of the no disadvantage test for virtually every worker, the change in the definition of ‘duress’ and the removal of the fairness provisions from the establishment of the minimum wage combine to fundamentally change the balance of power in the workplace and irrevocably drive basic standards down to the minimum standards. It is going to have, as the member for Hunter correctly said, serious consequences, particularly for small business in very competitive sectors. Eventually, even the better and more reasonable employers, when one of their competitors takes advantage of this and drives conditions down, will have to follow to compete.

It is essentially the legislation that the Howard government wanted to introduce in 1996, that the then shadow minister for industrial relations, John Howard, wanted to introduce in 1993 and that he has been advocating since 1982—remove the no disadvantage test, take out fairness, allow duress and remove standards down to the legislated core minima. That will combine to change the balance of power in the workplace. It will take away the limits on employer prerogative that have been accumulated over 100 years of effective organisation by the collective action of working people and the considered decisions of industrial tribunals. I think we have a very serious and enduring problem.

I want to talk about two other things in the limited time available. On the face of it, the first is simply a process problem, but I am very worried about it. It is going to have implications in this legislation and, if we allow it to pass uncommented, in other legislation. It is the introduction, for the first time in my memory, of what is called a Henry VIII clause—that is, the power of the executive to change the legislation by regulation, which has not been allowed since Henry VIII gave it to himself and was challenged by the parliament. It applies to the capacity of the minister to change what is not allowed to be in agreements without reference to this parliament, allowing regulation to change legislation—not to implement legislation but change the provisions of the law.

Mr Tuckey interjecting—

Mr McMULLAN—It is a Henry VIII clause. The member for O’Connor has been here long enough and should understand its implications. I will be astonished if the Senate Standing Committee on Regulations and Ordinances allows this to go unchallenged. It is a very serious precedent, which this parliament in both houses has been strongly resisting in the past, and we should do again.

The other thing I want to comment on is the Fair Pay Commission. The Fair Pay Commission is as much about fairness as the Democratic People’s Republic of Korea is about democracy. It is a very serious reflection on the considered work over a century of the Industrial Relations Commission. It reflects the frustration the Howard government have felt because the Industrial Relations Commission has rejected their unfair propositions time and again and has granted modest but reasonable increases in the minimum wage. The Fair Pay Commission may blow up in their face; it may not deliver what they wish, but it is designed to take away the power of the Industrial Relations Commission to reject the Howard government’s unfair proposals about the minimum wage and thereby reduce the outcome. (Time expired)

Ms BIRD (Cunningham) (10.28 am)—I want to take this opportunity, since I did not have the opportunity to make a full contribution to the debate on the Workplace Relations Amendment (Work Choices) Bill 2005, to
deal with one particular aspect of concern and interest. If I had had my full 20 minutes, I would have gone through some of the details in the legislation and the concerns that I have about how it takes away many protections, particularly for working families, but I want to particularly talk about the issue of the language that has been used in the debate. Language is obviously critically important to the government, because they wasted significant amounts of taxpayers’ money pulping a booklet to put the word ‘fair’ in, so I was particularly interested that they are upset about our use of the adjective ‘extreme’ and have decided that ‘big’ is a more appropriate adjective for this piece of legislation.

I thought there must be some particularly enlightening reason that the government had chosen the word ‘big’. I decided to refer to Roget’s Thesaurus. Mr Speaker, you may be interested in the range of options it gives for the word ‘big’. I would like to record them, because I think they tell us a lot about the bill. The options are:

ample, awash, barn door, brimming, bulky, bull, burly, capacious, chock-full, colossal, commodious, considerable, copious, crowded, enormous, extensive, fat, full, gigantic, heavy duty, heavy-weight, hefty, huge, bulking, humungous, husky, immense, jumbo, king sized, mammoth, massive, monster, mungo, oversize, packed, ponderous, prodigious, roomy, sizeable, spacious, strapping, stuffed, substantial, super colossal, thundering, vast, voluminous, walloping, whopper, whopping...

If you look at the range of synonyms for the word the government has specifically chosen for the bill, we can see that in fact they may be being far more truthful about the intention of the bill than perhaps they had intended to be.

All of those words indicate quite clearly that the impacts of the bill will be extreme. I have to say, having looked at Roget’s Thesaurus, that they will be big as well. I am sure people will feel that they are being stuffed by the bill. I am sure that they will feel that it is a super colossal, hefty and overweight document, despite the government’s claims about making the system simpler. And I am sure that they will feel that they are being monstered by this particular bill.

It is a pity, given that it is so big, that we did not have a ‘big’ amount of time to fully raise our concerns in this House. I can assure the government that many people in my electorate have already been raising concerns with me about how it will affect their family lives. In particular, there are concerns about the fact that many of them are already under pressure to work unreasonable hours. I had one lady only about a fortnight or so ago being required to work seven-day weeks, when she has a young family. This bill will have a big impact in a big way on the families not only in my community but throughout Australia.

If the minister in reply would like to explain why they have decided on the word ‘big’ as opposed to ‘extreme’ I would be interested to hear. I am sure they were desperately searching around, polling and trying to find a word that was less offensive and less accurate than ‘extreme’. I suggest that, in using the word ‘big’, they have actually chosen an unfortunate word, because if you look at the meaning of the word you will see that it reveals as much about the legislation as the word ‘extreme’ does. Mr Speaker, I thank you for this very brief opportunity in this House to raise the concerns about the implications of the bill. It is very sad that we did not have a big amount of time for each of us to detail what our concerns were with such a big, hefty, hulking, massive piece of legislation.
Mr SNOWDON (Lingiari) (10.33 am)—Let me first express my disappointment at not being able to participate in the second reading debate on the Workplace Relations Amendment (Work Choices) Bill 2005. I think that is a travesty for many of us on this side of the House. We come into this place to articulate and represent the views of our constituents. We are left in a position, in a debate like this, where it is guillotined and we are prohibited from expressing our views and representing their interests in this place. I think the government should be condemned for it. I know I will be belling the cat long and loud about the way in which the Australian community has been abused in this place by the Prime Minister and the minister at the table, the Minister Assisting the Prime Minister, in the way they have dealt with this piece of legislation—given that it is big, given its impact on Australian families.

I was trying to contemplate who in this chamber had actually spoken about people who live in the bush. I live in what people might call the bush—a small town: Alice Springs. My electorate encompasses in excess of 80 reasonably large Indigenous communities and comprises an Indigenous population of about 40 per cent. How will these people be served by this legislation? How will people who are the most disadvantaged in our community be served by this legislation? What we know already is that they find it hard to get into the labour market. What we know already is that, when they go along to an employer, they do it with trepidation. But what we also know is that they have had, as a backdrop, the reality that we have had an award system that has been a great foundation to their ability to get decent conditions.

Inevitably, under this legislation that will all go. The most susceptible in our community, those most open to abuse, those who do not have the ability to ring up their QC or knock on the door of an accountant, because they live in a remote community and may not have access to a telephone in any event—what do they do when confronted by an employer who says, ‘Here’s the deal, Son; take it or leave it’?

Mr Tuckey—They can ring the union!

Mr SNOWDON—Oh, they can ring the union. You are as pathetic here as you have ever been. What we know about this is that those people, the most vulnerable in our community, are going to be hurt by this legislation in ways that have not been foreseen by the government. We know that this is true also of people who live in regional Australia. All of the things that the government says will safeguard their interests—how do they access those in the first instance? We know it will not happen. We know it does not happen. The legislation allows individual contracts to undermine the rights of workers under collective agreements and awards, eliminating penalty rates, shift loadings, overtime, holiday pay and other award conditions. But it is the lack of protection for unfair dismissal that in my view undermines completely the concept of what a fair go is.

If you are working out bush, and you are away from transport and legal services and have nowhere to live because you have been kicked out of the company camp, what do you do? What do you do under this legislation? How are your rights preserved under this legislation? They simply are not. The government has failed to make the case that the laws will create jobs, lift productivity or improve living standards. Where is the community involvement if the new legislation allows businesses to unilaterally determine the pay and employment conditions of employees, free from discussion with and cooperation from unions, collective bargaining awards, industrial tribunals and workers themselves? Where is it?
I have been a not always happy but proud unionist all my working life. My first job was on a building site here in Canberra at the university, as a member of the BLF. I can tell you that I was looked after by the union. I was made aware of my responsibilities as an employee but protected by the union. What we are seeing now, in all its iterations, would see the construction industry attacked and the union movement—that is, the ability of people to collectively bargain, to come together as a group—severely undermined and threatened. (Time expired)

Mr STEPHEN SMITH (Perth) (10.38 am)—In the now 10 minutes that I have had available to me and in the hour that the House has had available to it in the committee stage to consider the 1,252 pages, the 456,156 words, of the Workplace Relations Amendment (Work Choices) Bill 2005, let me resume my contribution on my amendments. I repeat: my amendments, if adopted by the House, would kill the bill, would bin the bill, which is precisely what Labor will do in government.

I made the point in detail that page 29 of the bill removes the requirement that 'fairness' be a criterion to be taken into account in setting the minimum wage, so fair minimum standards are to be ignored. An employer is able to apply duress to an employee and force an employee onto an AWA as a condition of employment. There is the operational reasons provision, which essentially enables unfair dismissal laws to apply where there are more than 100 employees. The so-called 38-hour week is annualised over a year so that you would not necessarily know whether you had met the 38-hour provision until you had got to your 53rd week—leaving aside the capacity for additional hours. Upon the termination of an agreement one defaults not to an award or to the conditions of the previous agreement but to the government's so-called minimum standards.

The minister is given an extraordinary power to prohibit the content of agreements duly made. In the materials provided on that, matters we have seen so far go to unfair dismissal or AWAs. So there is no attempt to bridle the discretion of the minister in that respect.

The final point I wanted to make was in respect of the abolition of the no disadvantage test. It is here that the government essentially enables its great attack on living standards—its great attack on conditions and entitlements—to occur. We know what the no disadvantage test does. There are 20 allowable matters in an award. The government is removing four of those. The government is saying it is enshrining four of those in legislation, but it leaves swinging the great living standards and family and work balance entitlements and conditions. They are things like penalty rates, leave loadings, redundancy entitlements and shift allowances. The government has persistently pretended that somehow these matters are protected by law. The government’s advertising says the entitlements of public holidays, rest breaks, incentive based payments and bonuses, annual leave loadings, allowances, penalty rates and shift time are protected by law, when we know from the fine print they can be sold down the river with a one-line entry in an AWA. They are not protected at all. As the whole thrust of this bill is an attack upon the living standards and conditions of working Australian families, it shifts the bargaining power in the workplace massively away from the employee in favour of the employer.

Where do we find the genesis of these proposals? We find them not in the government’s election commitments made in the run-up to the last election. We find them here, in Jobsback, from October 1992. This is perhaps the best expression of the Prime Minister’s political and ideological obsession
with these matters, which we heard from him through the seventies, eighties and nineties. You could mount the case that the drafting instructions for this bill are essentially found in Jobsback. What do we know about the context of this bill? None of these measures were taken to the last election. We only started to hear about these measures—other than when we heard from John Howard in the seventies, eighties and nineties—when the government woke up and realised that it had total control of the House and total control of the Senate. That was the only occasion. These proposals are an attack upon living standards and living conditions. They are an attack upon wages. Also, they are an attack upon our values, virtues and characteristics. They are an attack upon the Australian way of life, as they are taking away that longstanding notion of a fair go.

The end result of these proposals will be the equivalent in Australia of an American working poor, where people will be dependent upon what they can get out of the tipping bowl to make ends meet. All the government would ever have to do is give the same commitment that they gave when they had Peter Reith and alsatians and balaclavas. They just have to give a guarantee that no individual Australian employee will be worse off as a result of these changes. They cannot and will not give that guarantee, because these proposals have as their public policy objective the reduction of wages, the reduction of salaries and the reduction and removal of conditions and entitlements. It is a matter of great regret, Mr Speaker, that you ruled out of order my amendment to change the name of this bill, because this bill truly is a bill to cut wages, cut conditions, and there is no fairness and no choice. (Time expired)

Mr ANDREWS (Menzies—Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service) (10.43 am)—If we were to believe the rhetoric of the Leader of the Opposition of half an hour ago, we would also have to conclude that Tony Blair, the Labour Prime Minister of Great Britain, is presiding over one of the most regressive industrial relations systems in the world. We would have to conclude that because the industrial relations system in the UK, presided over by Mr Blair, is much more deregulated than that in Australia today it still will be more deregulated after these changes in the Workplace Relations Amendment (Work Choices) Bill 2005 have taken effect.

The reality is, as Mr Blair recognised when he became the Prime Minister of Great Britain, that a flexible labour market is one of the underpinning factors of greater productivity growth, which in turn is a sustaining factor of economic growth. Mr Blair had the leadership and indeed the courage to face up to the first meeting of the Trade Union Congress after he became Prime Minister and say to the members of the trade unions in the United Kingdom that he was not making changes to that which Margaret Thatcher had put in place. The reason he was not making those changes was, he said, that those changes would bring about better conditions for the men and women and their families of Great Britain. If the Leader of the Opposition, the leader of the Labor Party in Australia, showed the same degree of leadership that the leader of the Labour Party in the United Kingdom has shown, he would get behind these changes.

But what we have seen in this debate is a Labor Party more interested in standing up for sectional interest than standing up for the national interest. That is the reality of this debate. The rhetoric which we hear over and over again in this place and elsewhere is similar to the rhetoric which we heard 10 years ago, when they were opposed to the changes to the Workplace Relations Act. Yet those changes have added considerably to
the strength of the Australian economy and
to the fact that we have 1.7 million Austra-
lians in jobs who were not in jobs 10 years
ago and we have seen a real wages increase
by 14.9 per cent. That is the reality.

If the Leader of the Opposition were in the
driver’s seat of the Labor Party rather than in
the passenger seat, he would show the lead-
ership that Tony Blair has shown in the
United Kingdom—and, to his credit, the
leadership which Paul Keating showed in the
early 1990s, when he belatedly recognised
that a rigid industrial relations system would
not save Australia from a recession and
would not save one million Australians from
being forced onto dole queues and into un-
employment. That is what a rigid industrial
relations system gave to the men and women
of Australia, and it is about time that the
Leader of the Opposition got out of the pas-
senger seat and stood for something in this
debate in Australia.

The reality is that even the unions do not
believe the Leader of the Opposition. We
had the secretary of Unions WA being re-
ported in the West Australian just a few days
ago as saying that essentially he did not trust
that the Labor Party would change these
things after they had been put in place. So
the unions in the state of Western Australia,
the home state of the Leader of the Opposi-
tion, the member for Brand—the people who
ought to know him most of all—say, ‘We
don’t know what he stands for and we don’t
know what he stands against either.’ Of
course, he has a track record there, because
he stood against the GST. Of course, what
happened to that? The ‘roll-back’ word is not
being used now.

In relation to the matter of substance that
was raised by the member for New England,
I understand the argument that he has been
putting, but I say to him that, even if he goes
to Tamworth in his own electorate, there are
many businesses that employ well in excess
of 20 that you would not regard as just small
businesses. I can recall visiting Tamworth at
a stage when small businesses in Tamworth
came to me and said that they were con-
cerned about unfair dismissal laws. I say to
the member for New England that, in a city
like Tamworth you quite easily can have a
motel or a fast food outlet that employs well
in excess of 20 people that we do not regard
as small businesses. That is the reason why
we chose the figure of 100. I regret to say to
the member for New England that I under-
stand the purport of the amendment that he is
seeking to move but the government will be
standing by the 100 figure in the legislation.

The SPEAKER—Order! In accordance
with the resolution agreed to earlier this day,
the time for consideration of the bill has ex-
pired. I therefore put the question that the
amendments moved by the member for Perth
be agreed to.

The House divided. [10.53 am]
(The Speaker—Hon. David Hawker)

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<thead>
<tr>
<th>Ayes</th>
<th>Noes</th>
<th>Majority</th>
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<td>59</td>
<td>80</td>
<td>21</td>
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AYES

Adams, D.G.H.  Beazley, K.C.  Bird, S.
Burke, A.E.  Byrne, A.M.  Crean, S.F.
Edwards, G.J.  Ellis, A.L.  Emerson, C.A.
Ferguson, M.J.  Garrett, P.  George, J.
Gillard, J.E.  Griffin, A.P.  Hatton, M.J.
Hoare, K.J.  Albanese, A.N.  Bevis, A.R.
Bowen, C.  Burke, A.S.  Corcoran, A.K.
Daubly, M.*  Elliot, J.  Ellis, K.
Ferguson, L.D.T.  Fitzgibbon, J.A.
Georganas, S.  Giffens, S.W.
Grierson, S.J.  Hall, J.G.*  Hayes, C.P.
Irwin, J.
The SPEAKER—In accordance with the resolution agreed to earlier this day, I now put the question:

That this bill be now read a third time.

The House divided. [11.00 am]

AYES

Abbott, A.J. Andrews, K.J.
Bailey, F.E. Baird, B.G.
Baker, M. Baldwin, R.C.
Barresi, P.A. Bartlett, K.J.
Billson, B.F. Bishop, B.K.
Bishop, J.I. Broadbent, R.
Brough, M.T. Cadman, A.G.
Causley, I.R. Ciobo, S.M.
Cobb, J.K. Costello, P.H.
Downer, A.J.G. Draper, P.
Ellson, K.S. Entsch, W.G.
Fawcett, D. Ferguson, M.D.
Forrest, J.A. * Gambaro, T.
Gash, J. Georgiou, P.
Haase, B.W. Hardgrave, G.D.
Hartseyker, L. Henry, S.
Hockey, J.B. Howard, J.W.
Hull, K.E. Hunt, G.A.
Jensen, D. Johnson, M.A.
Jull, D.F. Keenan, M.
Kelly, J.M. Laming, A.
Ley, S.P. Lindsay, P.J.
Lloyd, J.E. Macfarlane, I.E.
Markus, L. May, M.A.
McArthur, S. * McGauran, P.J.
Moylan, J.E. Nairn, G.R.
Nelson, B.J. Neville, P.C.
Panopoulos, S. Pearce, C.J.
Pyne, C. Randall, D.J.
Richardson, K. Robb, A.
Ruddock, P.M. Schultz, A.
Scott, B.C. Seeker, P.D.
Slipper, P.N. Smith, A.D.H.
Somlyay, A.M. Stone, S.N.
Thompson, C.P. Ticehurst, K.V.
Tollner, D.W. Truss, W.E.

NOES

Abbott, A.J. Andrews, K.J.
Bailey, F.E. Baird, B.G.
Baker, M. Baldwin, R.C.
Billson, B.F. Bishop, B.K.
Barresi, P.A. Bartlett, K.J.
Bishop, J.I. Broadbent, R.
Brough, M.T. Cadman, A.G.
Causley, I.R. Ciobo, S.M.
Cobb, J.K. Costello, P.H.
Downer, A.J.G. Draper, P.
Dwyer, M.T. Entsch, W.G.
Fawcett, D. Ferguson, M.D.
Forrest, J.A. * Gambaro, T.
Gash, J. Georgiou, P.
Georgiou, P. Hardgrave, G.D.
Haase, B.W. Hardgrave, G.D.
Hartseyker, L. Henry, S.
Hockey, J.B. Howard, J.W.
Hull, K.E. Hunt, G.A.
Jensen, D. Johnson, M.A.
Jull, D.F. Keenan, M.
Kelly, J.M. Laming, A.
Ley, S.P. Lindsay, P.J.
Lloyd, J.E. Macfarlane, I.E.
Markus, L. May, M.A.
McArthur, S. * McGauran, P.J.
Moylan, J.E. Nairn, G.R.
Nelson, B.J. Neville, P.C.
Panopoulos, S. Pearce, C.J.
Pyne, C. Randall, D.J.
Richardson, K. Robb, A.

Turnbull, M.
Vaile, M.A.J.
Vasta, R.
Washer, M.J.

* denotes teller

Question negatived.

Third Reading

The SPEAKER—In accordance with the resolution agreed to earlier this day, I now put the question:

That this bill be now read a third time.

The House divided. [11.00 am]

(The Speaker—Hon. David Hawker)

Ayes............ 80
Noes............ 61
Majority....... 19
That so much of the standing and sessional orders be suspended as would prevent the Member for Perth from moving immediately that:

(a) as these measures were not put before the Australian people in the run up to the 2004 election and are only now being pursued because the Government has total control of the Parliament;

(b) as these proposals are based on a long standing ideological attachment by the Prime Minister and the Liberal Party to an unAustralian approach previously rejected by the Australian people and the Australian Parliament;

(c) as the Government has made out no social or economic case for these changes; and

(d) as the Government is arrogantly dismissive of the criticism and concerns expressed about the adverse consequences of the bill for the living standards of Australian families and for the Australian way of life;

should the Workplace Relations Amendment (Work Choices) Bill pass the Senate and receive assent, the Act and the actual operational impact of the extreme, unfair, and divisive industrial relations system it provides in practice be referred to the House of Representatives Standing Committee on Employment, Workplace Relations and Workforce Participation for inquiry and report by 30 June 2007.

If you are so proud of Jobsback, Johnny, you will give leave! If you are so proud of Jobsback, Johnny, put it to the test.

Mr ABBOTT (Warringah—Leader of the House) (11.09 am)—I move:

That the member be no longer heard.

The House divided. [11.17 am]

(Ayes………… 80

Noes………… 58

Majority……… 22)

AYES

Abbott, A.J.

Andrews, K.J.

Bailey, F.E.

Baird, B.G.

Mr ABBOTT (Warringah—Leader of the House) (11.09 am)—I move:

That the member be no longer heard.

The House divided. [11.17 am]

(Ayes………… 80

Noes………… 58

Majority……… 22)

AYES

Abbott, A.J.

Andrews, K.J.

Bailey, F.E.

Baird, B.G.
Thursday, 10 November 2005


NOES


Ay es 


* denotes teller

Question agreed to.

The Speaker—Is the motion seconded?

Ms GILLARD (Lalor—Manager of Opposition Business) (11.17 am)—I second the motion. This government hates the truth and wants to hide it all away until the next election. It hates the truth.

Mr ABBOTT (Warringah—Leader of the House) (11.18 am)—I move:

That the member be no longer heard.

The House divided. [11.18 am]

(The Speaker—Hon. David Hawker)

Ayes........... 80

Noes............ 58

Majority........ 22

AYES


Question agreed to.

Original question put:

That the motion (Mr Stephen Smith’s) be agreed to.

The House divided. [11.21 am]

(The Speaker—Hon. David Hawker)

Ayes…………… 57

Noes…………… 80

Majority……… 23

AYES


NOES

TAX LAWS AMENDMENT (IMPROVEMENTS TO SELF ASSESSMENT) BILL (No. 2) 2005

First Reading

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

Second Reading

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (11.31 am)—I move:

That the bill be now read a second time.

This bill represents the major milestone in the implementation of the government’s Review of Aspects of Income Tax Self Assessment.

On 16 December 2004, the Treasurer announced the government’s response to the Report on aspects of income tax self assessment and released the report to the public. The Treasurer announced that the government would adopt all 30 legislative recommendations made in the report.

Accordingly, the Tax Laws Amendment (Improvements to Self Assessment) Act (No. 1) 2005 amended existing law to implement the recommendations about penalties and shortfall interest charge.

This bill continues the process of reform of self-assessment by implementing the remaining legislative recommendations about Taxation Office advice and periods for reviewing assessments. The measures contained in the bill will move the balance of fairness markedly in favour of taxpayers in two very significant and important ways.

Firstly, this bill will improve certainty through providing a better framework for the provision of Taxation Office advice and introducing ways to make that advice more timely, accessible and binding in a wide range of cases.
Secondly, it ensures that the time during which taxpayers experience uncertainty about whether they have correctly self-assessed their income tax liability more accurately reflects their risk profile and the revenue consequence of an error in their assessment.

In particular, the bill amends existing provisions to:

- improve the arrangements for a taxpayer to find out the commissioner’s view about how the taxation laws apply so that the risks of uncertainty when they are self-assessing are reduced; and
- improve certainty by reducing the periods allowed for the Taxation Office to increase a taxpayer’s liability in a wide range of situations. The result will be that about eight million individuals and over 745,000 very small businesses will have a shorter period of review.

The measures contained in this bill will significantly improve taxpayers’ experience of the self-assessment aspects of the tax system. These measures represent another major step in this government’s ongoing commitment to improving the Australian taxation system.

These amendments apply to rulings and ATO advice from 1 January 2006 or royal assent, whichever is the later. The amendments to the amended assessment rules apply to the 2004-05 and later income years.

Full details of the measures in these bills are contained in the explanatory memorandum.

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

Debate (on motion by Mr Fitzgibbon) adjourned.

### LAW AND JUSTICE LEGISLATION
### AMENDMENT (VIDEO LINK EVIDENCE AND OTHER MEASURES) BILL 2005

#### Consideration of Senate Message

Consideration resumed from 8 November.

**Senate amendments—**

(1) Schedule 1, item 5, page 6 (after line 16), at the end of section 15YV, add:

Definition

(3) In this section:

substantial adverse effect means an effect that is adverse and not insubstantial, insignificant or trivial.

(2) Schedule 1, item 25, page 17 (after line 6), at the end of section 25A, add:

Definition

(4) In this section:

substantial adverse effect means an effect that is adverse and not insubstantial, insignificant or trivial.

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (11.34 am)—I move:

That the amendments be agreed to.

Question agreed to.

### COMMITTEES

#### Public Works Committee

**Approval of Work**

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (11.35 am)—On behalf of the Parliamentary Secretary to the Minister for Finance and Administration, I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on which the committee has duly reported to Parliament: Fit-out of new leased premises for AusAID at Block 20, Section 10, known as London 11, ACT.

Question agreed to.
ANTI-TERRORISM BILL (No. 2) 2005
Second Reading

Debate resumed from 3 November, on motion by Mr Ruddock:

That the bill be now read a second time.

Mr BEAZLEY (Brand—Leader of the Opposition) (11.36 am)—I move

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

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

(1) notes that securing the community from terrorism and ensuring our citizens live in freedom from fear is among the highest and most fundamental tasks of government;

(2) condemns the Howard Government’s failure to take necessary and practical measures to adequately protect Australians from terrorist threats, in particular, its failure to:

(a) ensure aviation security as detailed in the recent report of Sir John Wheeler including:

(i) the x-ray examination of 100% of international checked baggage;

(ii) the upgrading of security at regional airports;

(iii) providing effective and coordinated security at Australian airports;

(iv) ensuring the effective and accurate operation of Aviation Security Identity Cards;

(b) provide adequate maritime security including:

(i) allowing 90% of containers to transit ports without being x-rayed;

(ii) failing to enforce requirements that all inbound vessels identify their crew and cargo 48 hours before arriving in port;

(iii) providing single voyage permits for foreign flagged ships of convenience to carry explosives and dangerous substances around the Australian coastline and into our ports;

(c) ensure security on our mass transit systems especially urban rail systems;

(d) provide a single co-ordinated response to terrorism through a Homeland Security Department;

(e) meet the international Financial Action Task Force’s 9 Special Recommendations on Terrorist Financing and the 40 general recommendations on Money Laundering—leaving Australia unprepared to deal with the estimated AUD $2-3 billion laundered annually through the Australian economy by criminals and possibly terrorists;

(f) adequately secure Australia’s increasingly porous borders; and

(g) establish a Coastguard to properly protect our maritime approaches particularly in the north and northwest of Australia;

(3) notes that:

(a) tough anti-terrorist laws need to be matched with strong safeguards;

(b) the struggle to defeat terrorism does not require us to surrender the basic rights and freedoms of the democratic and free society that we enjoy in Australia; and

(c) the requirement for effective safeguards is highlighted by the Howard Government’s record of incompetence in immigration detention, which has led to the wrongful detention of at least 220 people;

(d) the counter-terrorist financing measures contained within this Bill are a mere fraction of the measures required to bring Australia into compliance with the global standard;

(4) condemns the heavy handed and arrogant tactics originally adopted by the Howard Government in planning to introduce this Bill into the Parliament and have it debated
immediately on Melbourne Cup day and also seeking to have Senate Committee scrutiny limited to just one day;

(5) calls on the Government to:

(a) introduce legislation to establish a permanent independent oversight agency for the Australian Federal Police to oversee the operations of the AFP without delay;

(b) provide increased resources for the Inspector General of Intelligence and Security to enable improved scrutiny of the expanding intelligence community;

(c) expand the role of the Joint Standing Committee on Intelligence Services to include oversight of those aspects of the AFP associated with anti-terrorism activities and, further adopt the recommendations of that Committee made last year in relation to the Committee’s access to classified material;

(d) automatically refer all proposed laws relating to intelligence services or counter terrorism to the Standing Committee on Intelligence Services for report to both Houses of Parliament;

(e) recognise that a key safeguard against terrorism is the maintenance of a coherent and harmonious multicultural community and therefore;

(i) adopt Labor’s plan to criminalise incitement to violence on racial or religious grounds by separate legislation; and

(ii) ensure the teaching of respect for Australian values in all schools;

(f) report to the Parliament on the question of constitutionality of the measures contained in the bill;

(g) report to the Parliament on whether the proposed laws are consistent with Australia’s obligations under international law;

(h) ensure that fair commentary, artistic expression and criticism is not restricted by this Bill;

(i) ensure that peaceful industrial, political and artistic protest is not restricted by this Bill; and

(j) excise schedule 7 on sedition and refer the sedition laws of Australia to an independent public review for consideration and recommendation to the Parliament prior to introducing amendments to the Parliament;

(k) expedite the stalled Counter-Terrorist Financing and Anti-Money Laundering legislation, first promised by the Howard Government in December 2003 and yet to be brought before the Parliament;

(6) calls on the Government to seek agreement with the States and Territories to alter the Bill to give effect to the following:

(a) require the Attorney-General to report to Parliament on the use of control orders, preventative detention orders and prohibited contact orders every three months, to ensure sufficient parliamentary scrutiny as is the case in the UK;

(b) require the court to hear a control order confirmation hearing as soon as reasonably practicable after the interim hearing;

(c) permit a person held subject to a preventative detention order to inform an immediate family member about their detention in similar terms to that applying in the bill to a person under 18 years, subject to any prohibited contact order that may have been made (ie, a specific decision that that family member should not be informed for security reasons);

(d) subject the provisions of the Anti-Terrorism Acts (No. 1) and (No. 2) to a five year sunset clause, not the proposed ten years (noting that the ASIO 2002 Act is subject to a three
year sunset clause and similar UK laws are subject to an effective one year sunset clause);
(e) subject the provisions of the Anti-Terrorism Acts (No. 1) and (No. 2) to a review after two and one half years, by a committee as is required by section 4 of the Security Legislation Amendment (Terrorism) Act 2002;
(f) establish a Federal Public Interest Monitor with similar powers and functions as the Queensland office; and
(g) define an issuing court for the purposes of control orders to be the Federal Court; and
(7) urges the Senate committee to look closely at the issues outlined above as well as:
(a) the breadth and reach of the provisions relating to advocacy of terrorism and financing of terrorism; and
(b) any retrospective effect of the bill.”
That is what I call an amendment! It lays out a substantial proportion of the concerns that we have with the Anti-Terrorism Bill (No. 2) 2005, which we are supporting, and where we think it could be very substantially improved. I hope the government members will look seriously at the amendment when they give this matter further consideration, be they serving on the Senate committee or considering it in the Senate.

Labor will always act in the national interest, and in the national interest we support the legislation. Winning the war on terror requires tough, practical measures. We support tough laws with strong safeguards. New powers must guarantee adequate protection, but expanded powers cannot be unchecked. They must not trample on the democratic rights of all Australians. Only laws that properly balance being tough on terrorists with protection of our democratic freedoms are good laws. They can only be strong laws if we get the balance right.

Every Australian understands the sacrifices our country and its people have made in our history in their defence of a free, democratic country. In the two world wars, more than 100,000 young Australians died in defence of freedom. There were those at home whose determination, hard work and sense of decency built this country. We think, too, of the tens of thousands who fled oppressive regimes in search of safety and a place where tolerance and compassion are valued. In defence of our nation, we will not give an inch to terrorists. We will never be cowed by threat or attack. Terrorism will never destroy who we are or what we believe in.

Labor has been at the thick of the national security debate right from the start, consistently arguing since September 2001 that Australia needs balanced antiterrorism laws to protect and secure our way of life. Two days after September 11, I announced an antiterrorism strategy, urging a fundamental recommitment to public safety and a preparedness to deal with a new and continuing level of threat. In October 2001, more than four years ago, I committed Labor to rigorously protecting our sea, air, immigration and electronic borders and crucial infrastructure, aggressively tackling global terrorist networks and combating terrorism by improving intelligence, strengthening law enforcement agencies and coordinating operations at a national level.

We know that the first and by far the most pressing priority of government is the defence and security of the nation and its people. This has long been reflected in our willingness to adopt a sensible bipartisan approach on matters of national security. Take, for example, the introduction of the ASIO Legislation Amendment (Terrorism) Bill 2002. When it was introduced, we had con-
cerns about specific aspects of it. Subsequently, it was the subject of three reports by parliamentary committees, which were highly critical of the lack of appropriate safeguards in the legislation. In June 2003, after considerable amendment, the bill was passed—a very different piece of legislation from that presented initially. It was an example of how balanced, thoughtful criticism and a hefty dose of tenacity can produce a far better result—an outcome that was even praised by the Attorney-General as:

"... a result appropriate for a democracy at work ... an example of how the law and our parliamentary and other democratic institutions can combine to ensure good government ..."

One of the unfortunate things about this debate is that we no longer have the position that then existed in the Senate where the government needed the Australian Labor Party to pass its legislation, which means that this legislation will not be so effective and will not contain that level of balance. But, from reading our proposed all-encompassing second reading amendment, I think you can see where the debate would have gone in the Senate had that position still obtained. We would have got a good law out of this; in fact, it would have been a better law. It would have protected us. It would have ensured essential Australian values more effectively than the legislation we shall now pass.

All year Labor has led the debate on practical measures that will stop a terrorist attack before it is unleashed. In July, when four suicide bombers attacked London’s underground and a bus, killing 52 people and injuring more than 700, we called for a $30 million funding pool for rail security in Australia, including police flying squads on trains, more sniffer dogs, extra surveillance devices and security screens and fences. Yet again, we demanded the immediate introduction of practical, sensible improvements: effectively screen regional airports, X-ray all outward-bound baggage, monitor flag of convenience ships and their crews, and better protect critical energy and communications infrastructure.

Weeks later, when I presented Labor’s blueprint on national security, ‘A Nation Unprepared: Australia in the Fourth Year of a Long War’, I asserted that the most serious national concern facing our country was the protection of our people from the threat of terrorism. I said unequivocally that, four years into the war on terror, Australia simply was not as prepared as we should or could be to prevent terrorism. I outlined what needed to be done to make us a safe haven, concentrating our efforts on intelligence gathering, surveillance, investigation and detention and equipping our intelligence agencies and the Federal Police with the resources they need to get the job done.

Instead of bogging down our defence forces in the Iraqi quagmire—a $1 billion war with no end in sight—we should have used that $1 billion to hunt down al-Qaeda in Afghanistan and to provide ASIO and other Australian agencies with the latest technology and adequate staff to track down, arrest and prosecute terrorists here; to negotiate intelligence-sharing protocols across our region, where our future security will be determined, to yield better flows of intelligence on regional terrorist organisations and individuals; to target-harden our airports and ports, with passenger screening at regional airports; for a coordinated approach between all agencies to airport security; for proper X-ray checking of all containers coming into our ports—not a pathetic rate of just one out of 10 cargoes, which is what it is now; and for rigorously checking all crews and cargoes of foreign vessels operating in our waters. If you are a government that is serious about thwarting terrorism, there is a raft of practi-
cal, sensible and workable measures to stop a terrorist attack before it happens.

In my blueprint, I also pointed out that, in the absence of national uniform laws for police powers to fight terrorism, the Army’s special forces personnel could find themselves dispatched into a confusing array of state jurisdictions, if they were needed to respond to a terrorist threat. State by state, the police forces they cooperate with would be operating under different powers to stop, search and seize. I am pleased to note today that the legislation before us, together with a COAG agreement negotiated with the Labor states adopting the New South Wales model of emergency police powers to search, enter, seize and detain, implements a new cooperative regime between state and Commonwealth forces. This is long overdue.

It had been obvious to us for a considerable time that there had to be an agreement between the Prime Minister, the premiers and the chief ministers. I am relieved that, in the national interest, the federal government finally acted on our advice, albeit belatedly. Then again, on 19 September, my shadow minister for homeland security, Arch Bevis, repeated Labor’s concern that the practical measures essential to win the fight against terror were being neglected and ignored; and again our concerns about security were disparagingly dismissed, variously described by the transport minister—having no understanding of regional aviation—as scaremongering, undermining by silly rumours and crying wolf, which was an out-of-touch response to legitimate concerns about national security.

On 25 September, two days before the COAG meeting, which Labor had called for, I released a detailed proposal to give police in all Australian jurisdictions the practical intelligence based powers they need to prevent terrorist attacks and deal with terrorist emergencies—tough but sensible and practical powers to give police the tools they need to prevent attacks, but also deal with ongoing threats in emergency situations; more usable powers for police and police commissioners, but with additional judicial oversight; the national leadership to implement nationally consistent terrorist offences and counter-terrorism powers between the Commonwealth, states and territories—while at the same time making it clear that, to achieve the correct balance, antiterrorist laws should be subject to sunset clauses and that detention of any citizen for any extended period of time must be based on sound intelligence of a credible threat and be authorised by a judge, not a bureaucrat or politician.

The security of our nation and our people is far too serious a matter to be taken lightly or frivolously. Labor has consistently argued its case calmly and constructively, identifying areas of concern and suggesting changes in a spirit of bipartisanship. In contrast, after COAG, the Prime Minister and the Attorney-General opted for opportunism over scrutiny and open debate. While we applauded the COAG decision to adopt Labor’s plan for nationally consistent counter-terrorism laws, we were deeply concerned about gaping holes in Australia’s airport and maritime security. When ACT Chief Minister, Jon Stanhope, posted the draft legislation on his website, it was glaringly obvious that close scrutiny was required. That particular piece of legislation was an extraordinary thing to put out in the name of a government. This legislation bears no real resemblance to it, thankfully, thanks to the very good work put in place by the premiers over subsequent days. That the Attorney-General of this nation could seriously contemplate the trashing of Australian traditions contained in that legislation was an extraordinary thing.

The government’s response to all that was to treat us like mugs, attempting to sneak
through this critical legislation, introduce debate and guillotine the bills on one day—Melbourne Cup day at that—and then ram through the full suite of the antiterrorism amendments with a farcical one-day Senate inquiry. It was only under Labor pressure that the government caved in, giving the Senate Legal and Constitutional Affairs Legislation Committee until 28 November to report back.

The legislation we see here today, as I said, is very different from that which appeared on the ACT Chief Minister’s web site. Its evolution reflects our determination to get the balance right, demand the time to carefully scrutinise the bills and suggest changes. In the legislation before us, we have achieved these things: the abandonment of shoot to kill provisions and much improved judicial scrutiny of control orders. Now only an interim order may be obtained without the presence of the subject. At confirmation hearing, the subject will have access to a summary of the reasons for the order and will be able to make arguments about why it should not apply. Also, the judge has to specifically balance the need to protect the public against the effect of an order on the subject, including the loss of liberties. We have also achieved clearer rights of review in preventative detention, the right to receive summary of the reasons for detention, a clear requirement that the issuing authority must re-examine the police case, a right to judicial review of the lawfulness of the detention, a right to a merits review, with possible compensation after the detention, and a legislated independent review after five years. Those are the changes which bring this bill much more in line with the propositions that were being advocated by me and our various spokespersons that deal with Attorney-General’s matters and homeland security.

The Labor Party remain opposed to including the sedition laws in this bill. We are seeking their removal—failing that, their amendment to ensure that fair commentary, artistic expression and criticism and peaceful industrial, political and artistic protest are not restricted by the bill. From the outset, we have opposed the inclusion of sedition laws in this bill on two grounds. The first goes to process. We have argued that sedition should not be dealt with in this bill. It is not the appropriate legislative vehicle for these matters. They were not part of COAG discussions or the final agreement signed by the Commonwealth, state and territory leaders.

The sedition provisions have been inadequately drafted. Such crucial legislation deserves more careful consideration and should be dealt with separately from the bills we are debating here today. Even the Attorney-General has admitted that the laws are not adequate, committing himself to review them even before they are passed. If ever there was an example of putting the cart before the horse, that is it. If there is a need for review, as the Attorney-General asserts, surely it is only logical to do it now, not when the bill is passed into law. We agree that existing laws are antiquated, so why not tackle the task properly, rather than bundling them up in this bill?

We are also concerned that in their current form there is a risk that the work of journalists and the artistic community could be compromised or restricted and that peaceful protest would be restricted. The only sensible solution is to remove schedule 7 from the bill—failing that, the schedule should be amended.

We support other changes outlined in the bill. We support them in Australia’s national interest and because winning the long war on terror demands tough practical measures, but we believe that more needs to be done. I outlined some of those practical measures a little earlier—tightening airport and maritime
security, including the screening of all luggage and cargo at all ports and airports; stricter checks on inbound vessels and their cargo; the establishment of a homeland security department; and the establishment of a coastguard to protect our poorest maritime borders, particularly in north and north-west Australia.

I want to dwell on two things a little. The first is the question of movement of dangerous cargoes around our coastline, particularly the movement of ammonium nitrate. This is currently being carried in cargoes, some of which are flag of convenience ships where the crews and ownership are not known, at least not in a way that the security or the police would find adequate. But we do know this, from other intelligence sources, though we do not know which ones: bin Laden controls flag of convenience shipping companies which operate in the areas in which he would operate, if he had control of those ships. For us to put at risk the possibility of 5,000 tonnes of ammonium nitrate going up in Botany Bay is simply not acceptable.

We in the Labor Party have been prepared to compromise on long and deeply held principles on the question of national security on bill after bill—and we are prepared to do it again here. Just once I would like to see the Liberal and National parties set aside one of their heartfelt prejudices in the interests of national security in this country and be prepared to allow a situation where this cargo is transported in Australian ships only. It would mean eating a small amount of humble pie in relation to the Maritime Union, but not much. It would be a massive improvement in our security arrangements if they did that. I only hope that we never pay a penalty for their continued manifestation of ideological prejudice against that union.

On another matter, last month in Darwin I saw first-hand the disturbing evidence that we are not winning the war against illegal fishing along our northern borders and, most worryingly, incursions by these people onto Australian shores. Last year 8,000 illegal vessels were sighted operating in Australian waters and only 400 interceptions took place. I was shown irrefutable proof of regular landings on our shores by illegals. They come ashore, regularly stashing fishing gear and other supplies, and even digging wells for water—audacious, and only too aware that Australia’s only defence in the region is a handful of Customs vessels spread thinly across thousands of kilometres of ocean.

What is happening there is a quarantine nightmare. In an environment of a threatened pandemic in the form of avian flu, let alone terrorist activity, we simply have to put a stop to it. The Prime Minister has adopted a casual approach, claiming that we are stopping the illegal fishing vessels. We are not. I am suggesting that he should go and have a look for himself and talk to local fishing groups and the Northern Territory government, as I have done. Then he might finally swallow his pride and admit that Australia now needs a full-time coastguard patrolling our northern waters. Frankly, I can say this with absolute certainty: had we implemented a coastguard four years ago, when we first suggested it, this simply would not be happening. Those vessels would have been driven back over the border lines; they would not be looting the Australian fishing zone, which will be fished out in a couple of years at the rates at which they are going. It is an industry that is producing $1½ billion for the people who organise it, which is why the violations are constant. Those people, let me remind you, Mr Speaker, are the same people who organised the illegal movement of people on boats to this country; and more than a few of them have associations with other criminal activities in the South-East Asian region and possibly also with terrorism.
We are also asking for the establishment of a permanent independent oversight agency for the AFP, increased resources for the Inspector-General of Intelligence and Security and an expansion of the role of the Joint Standing Committee on ASIO, ASIS and DSD to include oversight of those aspects of the AFP associated with antiterrorism activities. As well, the recommendations the committee made last year in relation to the committee’s access to classified material should be adopted, including automatic referral to them of proposed laws relating to intelligence services or counter-terrorism.

To defend Australia against terrorist attack we must defend the values that make us a coherent and harmonious multicultural community. I urge the Prime Minister and Attorney-General to adopt our plan to criminalise incitement to violence on racial or religious grounds, by separate legislation; and to ensure the teaching of respect for Australian values in all schools. We also have concerns about the constitutionality of measures contained in this bill and we believe that makes it paramount for the government to report to parliament on these matters and on whether the proposed laws are consistent with Australian obligations under international law.

Almost two years ago the government promised to introduce the counter-terrorism financing and anti-money-laundering legislation. We still have not seen that. As I said earlier, tough laws do have to have strong safeguards. But here there have been no tough laws at all. That is a safeguard too far. Quite frankly, in an environment where one of the things that national governments really can do is check the laundering of money, through their financial acts, by potential terrorist organisations, to not have those laws now, years down the track, is an absurdity and a serious depletion of our security capabilities.

As part of a reasonable and sensible safety net we call on the Commonwealth and the state and territory governments to include in the bill a requirement for the Attorney-General to report to parliament on the use of control orders, preventative detention orders and prohibited contact orders every three months. As well, there should be provision for the court to hear a control order confirmation hearing as soon as reasonably practicable after the interim hearing, and the right of a person held subject to a preventative detention order to inform an immediate family member about their detention. We also think the sunset clause should be reduced from 10 years to five, and I think the reasoning for that would be obvious.

We support the bill in the national interest. But, as I have said, we continue to have concerns about balance. These are expressed in our amendment. Should our amendment not be adopted today we will continue to press for change, and this will form the basis of our future policy consideration and presentation. Now, and into the future, we believe that we can have strong laws that protect our nation and our people and we can only have those laws effective when we get the balance right.

The SPEAKER—Is the amendment seconded?

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

Mr TUCKEY (O’Connor) (12.06 pm)—In the time allocated to me today I wish to address in due course all of the purposes of the Anti-Terrorism Bill (No. 2) 2005, as listed in the explanatory memorandum. But, having just listened to the Leader of the Opposition’s address—and whilst welcoming the support he has indicated—I could not but have a bit of a wry smile when a couple of hoary old Labor Party trade union chestnuts were rolled out in the interest of community
security. We have revisited cabotage. Where the vessel is unseaworthy and it sinks, it is not going to blow up. So the Leader of the Opposition took some care to draw to the chamber’s attention the fact—

*Mr Gavan O’Connor interjecting—*

*Mr TUCKEY—I keep giving you advice about that. The member for Corio does not have to worry about the next election; he is not contesting it. But there might be others here who would like to win, and they might just consider some of these issues. The point made on cabotage was that we have to have good, honest Aussies on board the boat to make sure it does not blow up. We have seen what happened at our airports recently with good union members, about whom there are now some questions going to the security risks they may have raised. The only condition to getting on an Australian flagged ship I know of is that you have to be a trade union member. The people who make the decisions as to who gets the jobs do not seem to have been very concerned about community security in the back. Let me tell you something that is absolutely true: the Carr government in New South Wales had legislation preventing airport authorities having an adequate video surveillance system. Why? They had that because it might have caught one of the union members just helping themselves to a camel suit or to other valuables. Do not worry about the security!

For goodness sake, in what is a very serious debate, do not start trotting out the old hoary chestnuts, including, of course, the coastguard. I am all in favour of maximising security. Having been a fisheries minister, I have a fair idea of the problems identified. But it is about time the Labor Party told us just how many ships they intend to commission. Is it going to be one per 100 kilometres? It is a pretty good sort of vessel that does, say, 30 knots. How many do you need around the 8,000 kilometres of northern coastline to make sure you can guarantee that there is no access for these tiny little fishing boats that come down from all over the place? Is the coastguard going to continue to provide the sort of aerial surveillance we have at the moment? As a practical measure, I have drawn to the attention of my party propositions to have in the air 20 aircraft for the cost of one. They, by the way, will be unmanned vehicles. Maybe the trade union movement and the pilots association will want to have a grizzle about that.

The realities are that you first have to identify the vessels and then you have to have enough surface equipment to get to them before, having seen the aerial surveillance, they buzz off. These are the factors. A coastguard per se is a name. It is time we were told how many naval assets are going to be transferred over and whether the people at *Stirling* base in the electorate of the Leader of the Opposition are all going to be told to transfer over to the coastguard or otherwise be made redundant. Cripes! They might be the first people wanting to use this new legislation. The reality is that they are silly propositions.

While I talk about that and I look at the proposed amendments and criticism, I should say that a fundamental of the Wheeler report was to make it clear that the level of government intervention must be relevant to the risk assessment. In other words, if the risk assessment is low, you do not X-ray 90 per cent of containers. This can be partly established through the fact that you know the source of these containers; people are able to make decisions as to the risk of each container. Of course, these are things you do. Even an expert of Sir John Wheeler’s standing is able to say to us, ‘You don’t have to have 100 per cent of everything.’ The simple fact is that you address a risk assessment as part of the process. I have in my electorate a
couple of small regional airports. One of them, I think, would not be very attractive to a terrorist because it is a hell of a long way away from the Asian region et cetera. We have made grants to that airport of a couple of hundred thousand dollars to improve fencing and give them what the risk assessment says is adequate.

The Leader of the Opposition also sought to eulogise the Chief Minister of the ACT, Mr Stanhope. I thought it was outrageous that a person who had been brought in and given full coverage of work in progress and who had every opportunity, using the legal facilities available to him and his government, to bring to the attention of the federal government—as other premiers were doing in confidence—whatever his concerns were, did what he did. I think it was Premier Beattie who expressed some considerable dissatisfaction that evidence he had brought to the attention of another of his Labor leader colleagues had been released to the media. He knew the rules. He knew the process. One can only wonder whether that also was Mr Stanhope, who just wanted a bit of publicity. It was a work in progress. Why did he have that bill? He had it at the invitation of the government, to try and make it better and more reasonable. Of course, when you instruct those who draft the bills that you have some serious problems, they will in the first instance write the bill to be as tough as possible. That is their job. You should not for a little bit of political advantage take them apart for the advice they gave to the government. That is exactly what it is.

On the issue of illegal fishing, which came into this terrorist debate, might I remind the House that I was the minister who had to fight quite hard to catch a boat called the *South Tomi*. It had never been done before. A past member of the Labor Party with whom I did not have much contact had the courage and the decency to stop me in the passage-way and congratulate me on that effort. It has been done since. I can advise the House that arranging the bureaucratic assets was not easy, but when you have determination you get there. That is the difference. We have the determination.

We have just heard the Leader of the Opposition tell us that if it was not for the Labor Party, there would have been no adjustments to this bill. There are some very well-intentioned and capable people on the government back benches—I would name Senator Brandis and the member for Wentworth, who sits alongside me, and there are others—highly qualified people, whom, as other members of the party room present in this chamber at the moment can attest, from the very first day that we were asked to give as a party room support for this process, were on their feet ensuring that the final outcome was in good order. The member for Kooyong, I am sure, was one of those at the time and no doubt will have something to say about that.

Of course it is difficult legislation. Of course we are going well beyond the measures and the legislation that we once would have considered appropriate. We have just had to do that. There was the silly argument that we tried to hide this activity on Melbourne Cup day. I am strongly in favour for personal reasons that we do not sit on Melbourne Cup day, but to then say that it is some conspiracy and that we waited for Melbourne Cup day to do some despicable act is just silly. It is not necessary. The fact was, as a recent events have established beyond doubt, we needed to do something in a hurry. The opposition were fully briefed. It was a silly thing to say. This is terribly serious stuff. Many of the things the Leader of the Opposition wanted to say and did say bring him credit. But the opposition can never avoid the opportunity to throw in a couple of scare tactics that have nothing to do with the issue.
Having said those things in response to the words said already, let me outline the bill to the House, as per the advice of the drafters in the explanatory memorandum:

The Bill improves the existing strong federal regime of offences and powers targeting terrorist acts and terrorist organisations. The Bill is the result of a comprehensive review of existing federal legislation that criminalises terrorist activity and confers powers on law enforcement and intelligence agencies to effectively prevent and investigate terrorism.

In the environment in which we live, that sounds like a pretty powerful reason to support this legislation. The principal features of the bill are:

- an extension of the definition of a terrorist organisation to enable listing of organisations that advocate terrorism ...

Of course, that is a necessary starting point. A preventative approach is everything. We do not just want to improve the powers of our police to go out and find the people who blew up a train yesterday. We need to prevent that event occurring. The explanatory memorandum continues:

- a new regime to allow for ‘control orders’ that will allow for the overt close monitoring of terrorist suspects who pose a risk to the community ...

That is a very unusual measure; it is something not generally practised in law but being made legal by this legislation, considering the very serious issues that confront us as politicians today. It continues:

- a new police preventative detention regime that will allow detention of a person without charge where it is reasonably necessary to prevent a terrorist act or to preserve evidence of such an act ...

The old idea that a person who burgled someone’s house and was let out on bail in the hope they would not burgle another house the next night was not very effective, but nobody’s life is at risk. But suddenly you have people who are prepared to destroy their own life just to kill another 50 or 60 people they have never seen in their life before. If you have a reasonable suspicion of that, do you let them out again? No, not until such time as you can establish in your mind as a police agency that these people do not represent that risk. The EM continues:

- updated seditious offences to cover those who urge violence or assistance to Australia’s enemies ...

This is clearly of great value. The explanatory memorandum goes on:

- strengthened offences of financing of terrorism by better coverage of the collection of funds for terrorist activity ...

I think that, administratively, our government does have a responsibility to do more in that area. We have been criticised internationally. Of course, every time we take those steps, our banking and other financial institutions create headlines in the paper, saying, ‘This will cost hundreds of millions of dollars at the cost of our customers and shareholders.’ As with the Wheeler recommendations, there has to be some sort of risk assessment there, but I would support the comments of the Leader of the Opposition with regard to improvement in that area. Some of it is occurring in this legislation, but administratively we must do it. It goes on:

- a new regime of stop, question, search and seize powers that will be exercisable at airports and other Commonwealth places to prevent or respond to terrorism ...

As I said, we have had to pass laws in this House simply to get adequate video surveillance in the baggage handling and other areas of our airports. If ever a state government stands condemned it was the Carr government, who thought it was more important to give privacy to people in a workplace than to protect the security of the passengers in an aircraft. The explanatory memorandum continues:
A new notice to produce regime to ensure the AFP is able to enforce compliance with lawful requests for information that will facilitate the investigation of a terrorism or other serious offence...

When the circumstances are so terrible, you have to have the power to make people answer questions. The other side of that is that sometimes there is a willing person who wishes to assist the police but they are simply terrified to be portrayed as a volunteer and they need protection to be able to say, ‘Of course I answered; I answered because I was going to be punished if I didn’t.’ So it is a two-way street. We are now dealing with a situation where those requirements and those powers are necessary. The list goes on:

- amendments to ASIO’s special powers warrant regime;
- amendments to the offence of providing false or misleading information under an ASIO questioning warrant ...

Again, it is absolutely important. At the conclusion of this legislation it will be a major crime to tell a lie. If that line is, ‘I don’t know where the explosives are hidden, even though I dug the hole,’ of course, it should be punishable to the maximum. It continues:

- Amendments to authorise access to airline passenger information for law enforcement and intelligence agencies ...

In other words, this is the legal right to know who is on a plane when you suspect certain parties have been there for ill intent, an absolutely necessary requirement considering recent events and the threat that is now posed by terrorism. It continues:

- The creation of a legal basis for the use of video surveillance at Australia’s major airports and on aircraft ...

We have to make sure that this is done and properly monitored, because state governments had to comply with union instructions. And finally:

- Additional implementation of FATF Special Recommendations covering criminalising financing of terrorism, alternative remittance dealers, wire transfers and cash couriers ...

The history of terrorism has always been about the laundering and the transfer of money. Every attempt that we can make to ensure that that does not happen in the future is to be encouraged and, again, this so-called controversial legislation deals with those matters. For all the hoo-ha, they are the provisions of this legislation. That is what the explanatory memorandum advises this House. I do not see that any of that could be avoided, and I do not see that any of it should be criticised. We need to get on with it in the interests of protecting Australians and the lifestyle we have enjoyed for so many years.

The DEPUTY SPEAKER (Mr Lindsay)—Before I call the next speaker, I advise the House that one of our longstanding, hardworking officers is having a birthday today. On behalf of the House, I wish our Serjeant-at-Arms a very happy 50th birthday.

Mr BEVIS (Brisbane) (12.27 pm)—Australia needs tough laws to deal with terrorism. Just as importantly, though, we need well-balanced laws that target the terrorists, not innocent citizens. We must ensure that, in responding to terrorism, we do not undermine or destroy the very liberties we are seeking to protect.

A number of key areas of the Anti-Terrorism Bill (No. 2) 2005 reflect an agreement between state and territory governments and the Commonwealth. It is a very different document from that which the Howard government proposed to the states and territories as its preferred law. It is alarming that the Howard government wanted to introduce laws that would have
enabled Australian citizens to be taken from their homes and locked up for two weeks without ever having a chance to appear before a court or that they would have had their right to free association and movement curtailed. John Howard’s preferred laws, which he sent to the states and territories, would have allowed all this to occur simply on the say-so of the Attorney General, Philip Ruddock, and a bureaucrat. To make matters worse, the Howard government tried to limit parliamentary scrutiny of the new laws by planning to introduce them into this House on Melbourne Cup day and, contrary to normal parliamentary practice, debating them immediately. They tried to restrict the Senate to just a one-day inquiry, and they did their best to hide their laws from the Australian people. Had it not been for Jon Stanhope’s decision to publish the bill on his web site, their secret plan may well have gone unnoticed until it was too late.

Before the government produced that document, and well before the COAG meeting, Kim Beazley and federal Labor were calling for a consistent national approach in terrorism policing laws. We urged the Prime Minister to show some leadership and convene a COAG meeting to establish an effective national framework of laws in this area. Before the COAG meeting, federal Labor set out powers and safeguards we viewed as necessary to respond to terrorism in a balanced way. For example, before COAG we said that any new powers had to be based on a credible threat, they had to relate to specific locations and be time limited.

We set benchmarks against which we would measure any future laws in this area. They had to include a sunset clause and proper judicial oversight of any detention of Australian citizens. Clearly, the Howard government’s proposal to the states and territories failed to meet the tests we set. It was an appalling proposal that neither federal nor state Labor supported.

The Labor premiers and chief ministers have forced the Howard government to dramatically alter its plans in the key area of control orders and preventative detention orders. There is now a two-stage process for control orders involving interim control orders and confirmed control orders. Interim control orders can only be granted by a court following the Attorney-General’s consent. The court must be satisfied on the balance of probabilities that: making the order would substantially assist in preventing a terrorist act; or, that the person has provided or received training from a listed terrorist organisation; and that each of the restrictions is reasonably necessary, appropriate and adopted to protect the public from a terrorist act, taking into account the impact on the person’s circumstances.

Although I accept the advice provided to me in an earlier briefing from the Attorney-General’s Department that those orders apply for only a short time—perhaps a day or two—Labor has moved amendments to make clear beyond any doubt that a full hearing is required as soon as practicable to consider whether the interim orders should be confirmed.

A person subject to a control order may apply at any time for the order to be revoked or varied. I want to commend the Queensland government and the Queensland Premier, Peter Beattie, for insisting on the additional safeguard of a public interest monitor, who will be able to ensure that a court has before it a broader range of information than simply that provided by the police. Labor’s amendments to this bill call for the creation of a federal public interest monitor to provide that protection for all Australians.

This bill also gives effect to the agreement reached by the premiers and the Prime Min-
ister for short-term initial preventative detention orders that can apply for a maximum period of 48 hours. The states and territories will separately be introducing laws concerning possible detention from day 3 to a maximum of 14 days. A preventative detention order can only be obtained once in relation to the same terrorist act.

Judicial review of these orders is provided for, including a provision for a person, following any detention, to apply to the Administrative Appeals Tribunal for a full merit review, including seeking damages. The bill also sets out requirements for the person to be treated with humanity, respect and dignity. Failure by police to comply with these safeguards will be an offence, with a penalty of up to two years imprisonment. Special provisions have been put in place for children aged 16 to 18 years.

Properly used, control orders and preventative detention orders can play a valuable part in disrupting planned terrorist attacks and more effectively investigating any incidents that may occur. The Labor premiers’ success in having these powers totally rewritten deserves congratulations. The provisions before the parliament are, thankfully, completely different to those the Prime Minister wanted to impose just a couple of weeks ago. Judicial oversight of these matters was a threshold issue federal Labor set out prior to the COAG meeting. This bill would be unacceptable without those changes.

The amendment moved by Labor leader Kim Beazley includes other important safeguards as well. These include the creation of a national public interest monitor along similar lines to that applying in Queensland. A public interest monitor would provide front-end accountability to protect everybody’s rights.

Labor’s amendment also provides for the creation of a police integrity commission to oversee the Australian Federal Police. That is particularly important given the AFP’s greater powers. As well, we believe the parliament’s intelligence services committee, the Joint Standing Committee on ASIO, ASIS and DSD, must have its role expanded to include monitoring AFP activities in their antiterrorism role, plus be given greater access to information in the conduct of its affairs. In fact, we are moving today for all intelligence-related laws to be referred to that committee for consideration and report prior to their consideration in this parliament.

The Inspector-General of Intelligence and Security, IGIS, plays a vital, independent role in monitoring the activities of Australia’s intelligence bodies. IGIS was created by a Labor government to ensure these agencies—which, of necessity, operate largely out of the public eye—are nonetheless carefully scrutinised. As a result of the growth in our intelligence community—with ASIO, alone, doubling staff in the last five years—it is vital that the resources to IGIS be substantially increased. Labor’s amendment includes this important provision so that public confidence in the operations of the secret services is maintained.

These are all important measures in getting the balance right. These amendments are supported by Labor today and they form part of our commitment to the people of Australia on reforms a Beazley Labor government will make after the next election.

The government does not have the balance right when it comes to sedition. Our current sedition laws are antiquated. The last time they were used was in the 1950s, and no-one seems sure when they were used before that.
The Attorney-General has admitted that the sedition provisions in this bill are faulty by announcing a review of them in the very same speech he gave when he introduced them. The sedition laws are not an integral part of the antiterror laws. There is no urgency that they be dealt with this year. It is simply absurd to ask the parliament to vote on laws that are not urgent, that are known to be deficient, and that will immediately be subjected to a review launched by the very person who introduced them.

Advice has been provided by some lawyers that the provisions before us run the risk of restricting fair comment in publication, artistic work and the theatre. I doubt that that is the intention even of this government, but it makes no sense to rush these sedition provisions through the parliament if we get things like that wrong. Similarly, the current wording seems to allow for an organisation promoting peaceful protest against any law of the Commonwealth to be charged with sedition if they were to breach a traffic law or another relatively minor law. That is a far cry from the historical intent of sedition. Peaceful protests should not constitute sedition in a free society.

It was only last week that we debated a bill that effectively changed the word ‘the’ to ‘a’. That is how important a word can be in the drafting of legislation. The proper course is for the parliament to accept Labor’s amendment, delete that schedule altogether from the bill, have the review on sedition laws and then introduce decent laws into the parliament that say clearly and unequivocally what the parliament wants them to say.

Federal Labor believes that some changes need to be made to some aspects of the COAG agreement reflected in this bill. That is why we have moved amendments to seek the agreement of the states and territories to improve accountability and transparency in the operation of these new powers. The bill requires the Attorney-General to report on the use of control orders and preventative detention orders only once a year. That is not good enough. The parliament should receive these reports every three months.

That is the case in the United Kingdom, agreed by their parliament in March this year. In fact, since then the Home Secretary has provided two reports—and this in a country at far greater risk of terrorism than Australia. In all, 12 people in the United Kingdom have had control orders placed on them. Nine have since been lifted. Given that the threat in Australia is less than that in the United Kingdom, there should be no more than a handful of cases where these powers would need to be used. Reporting every three months is not cumbersome. It is not an administrative burden. It is an essential part of the transparency that should apply when unusual powers like this are used in a free democratic society such as Australia.

We also need to change the sunset clause. Ten years is not a sunset clause; it is a political lifetime. Labor’s amendment reduces that to five years, with an independent review after 2½ years. This parliament imposed a three-year sunset clause on the 2002 antiterrorism laws, together with an independent review. That was the standard this parliament set in 2002 on similar laws. The UK’s 2005 antiterror laws are subject to a one-year review. The proposed 10-year sunset clause is absolutely unacceptable—if not offensive—in a democracy like ours.

The bill includes a number of less-well-reported but nonetheless important matters. One is the authority for increased use of closed-circuit television and similar technology in airports and on aircraft. Labor have been calling for increased use of these technologies for years. It was part of our 2004 election commitments. In spite of evidence
around the world, such as with the bombings in Madrid in 2004 and the vehicle blast outside the Australian Embassy in Jakarta last year, the Prime Minister has until now ignored Labor’s calls in this area. It seems that the experience of the United Kingdom security agencies following the London bombings this year has finally persuaded him to do something more than talk about it. Well, better late than never, Mr Howard.

The bill also goes some way to meeting our international obligations to clamp down on terrorist financing and money laundering. However, it fails to fully meet our obligations in this area. We are still waiting for the government to progress separate legislation on these matters—something they promised in 2003 but are yet to act on, two years later.

There are genuine concerns on our side of parliament about the way retrospectivity is applied in this bill. We will be asking the Senate committee inquiry to examine this important aspect of the proposal and look forward to its investigation and report—an investigation and report that would not have occurred had this government had its way only a matter of weeks ago when it tried to limit the Senate to just a one-day hearing.

It is important that we as a parliament get the laws right. But it is equally important that the government administer them carefully and effectively. The Howard government’s record in these matters is a cause for worry. This is a government that has wrongly detained at least 220 people. It has illegally deported an Australian citizen who it thought was a foreigner. We cannot afford for the police, intelligence and security forces of our nation to be DIMIA-ised. The department of immigration, DIMIA, has an appalling record of arrogance and incompetence. Its culture, developed when the present Attorney-General was its minister, has produced a litany of abuse and mismanagement, leaving a trail of human misery. We simply cannot allow that sort of thing to happen in this area of government—not for one minute. That is why it is so important that Labor’s safeguards are adopted.

One of the great strengths of our nation is our inclusive, harmonious and multicultural community. It is essential that the application of laws like this do not alienate entire groups or sections within our nation. It is important that great care is taken to apply laws like this to only those who pursue terrorist activity. The government, armed with these laws, has to be careful to administer them with caution and great care. Typecasting people by colour, religion, ancestry and the like are not only wrong but counterproductive and simply stupid. Suggestions made by some—including a Liberal parliamentarian in this parliament this week—that religious dress should be banned in schools is offensive, idiotic and dangerous.

Much of the media reporting—especially newspaper reporting of events in the last week—has been alarmist, simplistic, lazy and potentially harmful to both the rights of the accused and the longer term harmony of our community. It may be hoping against reason, but I urge those in the media to demonstrate caution and display the best of their professional standards in reporting and commenting on these sensitive issues.

Together with the careful administration of these powers, practical measures to improve homeland security are in the end our best response to terrorism. Laws like these may help to apprehend terrorists or would-be terrorists. But terrorists are not too concerned about the laws we pass. Anyone planning or conducting a terrorist act will most likely fall foul of a whole raft of laws. What we need is a government less obsessed with additional and harsher laws and more obsessed with getting the basics right.
In spite of all of the government’s hype, Australia is still not X-raying 100 per cent of baggage on international flights, even though it said that that would be in place by the start of this year. Here we are at the end of 2005, and it still does not occur at our largest airport. Four years after 11 September, the government needed a 150-page report by British expert Sir John Wheeler to sting the Prime Minister into more serious action on airport security.

Barely 10 per cent of containers arriving in Australian ports are X-rayed. The odds are in favour of the terrorists. The Howard government hand out single-voyage permits to foreign flagged, foreign crewed ships of convenience as if they were bus tickets. Then they let these ships carry thousands of tonnes of dangerous chemicals around our coastline and into our ports and cities. None of the crew on these ships has a maritime security identity card. None of them is security checked. We do not need new laws to fix that; we need competent ministers doing their job.

Eighteen months after the Madrid train bombing, and months after the London bombings, the Howard government has done virtually nothing about urban mass transport security. Yet there is an urgent need for improvements in this area. Meanwhile the government’s Inspector of Transport Security, who should have been on the job making sure the travelling public are safe, has been off trying to clean up the mess in DIMIA. In fact, since his appointment in November 2004, he has been involved in transport security for just 16 days. How can the Howard government expect to be taken seriously on these matters with a record like that?

If you step back and look at the whole picture, you will discover that the Howard government scatters these responsibilities across a range of departments and even more agencies. Without the coordination of a single homeland security department, there will continue to be problems. Take, for example, the protection of our coastline and the problems we have experienced of late with illegal fishing boats. Under present arrangements, the handful of Customs and Fisheries vessels are empowered by legislation to fire upon fleeing suspected illegal vessels in Australian waters but do not have the weapons to do it; whereas our naval vessels have the weapons to fire on fleeing vessels but do not have rules of engagement to allow them to do it.

Since the events of September 11, 2001, Labor has approached this issue with a strong belief in the vital importance of a single homeland security department that encompasses the key agencies involved in information and intelligence gathering, policing, border protection, a national coastguard, transport security and incident response. The Howard government’s insistence on splitting these functions over a number of departments invites overlap, wastage, confusion and missed opportunities. In national security, that endangers lives.

Labor will not allow terrorism to undermine or destroy our society or the principles upon which it is built and for which so many have fought and died. Labor will support these laws, as we did the Anti-Terrorism Bill 2005 last week. We will act in the national interest, as we always have, to place the safety and wellbeing of Australians first. We will, however, pursue our amendments here and in the Senate. We will also place our concerns before the Senate committee. I urge the members of the government, particularly in the Senate, to look closely at Labor’s amendments and concerns. If, in the end, the government rejects our amendments, we will go to the Australian people committed to making these improvements in a new Beazley Labor government. (Time expired)
Mr GEORGIOU (Kooyong) (12.47 pm)—The Anti-Terrorism Bill (No. 2) 2005 contains severe and exceptional measures. In particular there are measures that establish regimes of control and preventative detention orders. These measures will allow people to be deprived of their liberty even though they have not been arrested for or convicted of any crime. These measures bring to the fore the very real tension between parliament’s duty to protect the community from the threat of terrorism and its obligation to ensure that other fundamental rights such as due process, liberty and freedom of speech are not unduly infringed upon or curtailed.

Let me set out my perspective very clearly. The risk of a terrorist attack in Australia is real. We are not immune from the possibility of attacks such as those that have killed thousands of people, including Australians, on the soils of our close friends and allies in recent weeks and years. Given the scale of the harm that the terrorists have unleashed and evidently seek to cause and their organisational and material resources, I consider that the threat is sufficiently grave to warrant exceptional measures. We have to give our police and intelligence agencies sufficient powers to protect us, but we must also do so without betraying the very values we are defending.

The challenge to the parliament of getting the balance right is a formidable one. Concern has been expressed that the pressure to legislate new powers would not allow parliament sufficient time for the rigorous examination required to ensure that the proposed measures are necessary and effective and contain appropriate safeguards. I believe that, under the arrangements now made for the consideration of this bill—particularly with the scrutiny by the Senate Legal and Constitutional Legislation Committee—parliament does have the capacity to look at the measures closely and to take into account the view of the many groups and individuals who wish to participate in the debate on this critical subject.

I now turn to the substance of the bill. It is important to note that significant protections have been incorporated in a number of areas, particularly with respect to the most sweeping provisions—those establishing control and preventative detention orders. One can see this very clearly by comparing this bill with the draft bill that was published on the internet. Let me give several examples. First, in the draft bill, a court was able to make a control order for 12 months after a hearing at which only the police were present to offer evidence. The police would then serve the order telling the person what they were now obliged to do or were prohibited from doing but without any explanation as to why. The draft gave people subject to the controls the right to apply to a court to revoke the order, but they had to give notice to the police of the grounds for revocation, without the police being obliged to state the grounds on which the order was based.

The procedure is very different under the Anti-Terrorism Bill (No. 2) 2005, which has been introduced to this parliament. Now a court can impose only an interim order at a hearing where only the police present their case. If the court makes an interim order, it has to schedule a full hearing to give the individuals affected an opportunity to contest the evidence before deciding whether to confirm or to revoke the order. The police are now required to give people on whom an order is imposed a summary of the grounds on which the order was based.

The system of preventative detention orders also contains improved safeguards. In the draft bill, once an initial preventative order was made there was no independent scrutiny until it was due to expire and the detainee had no entitlements to make representation about their detention. They were not entitled to be told
anything about why an order was imposed on
them.

Under the bill that has been introduced, a
detained person must be given a summary of
the grounds on which the order is made and,
further, the Federal Police Commissioner
must nominate a senior Federal Police mem-
ber who was not involved in the making of
the application for the order, to oversee the
exercise of the powers under the order. The
nominated officer’s responsibilities include
monitoring whether the grounds for deten-
tion have ceased, in which case he must ap-
ply for the order to be revoked so that the
person can be released. As well, the bill pro-
vides that the detained person or their lawyer
is entitled to make representations about the
detention order to the nominated police offi-
cer.

I believe the government is to be com-
mended for these positive responses to sug-
gestions made from a number of quarters for
additional safeguards. They have been
achieved without in any way weakening the
effectiveness of the measures. I anticipate
that the detailed deliberation of this chamber,
the Senate and the legal and constitutional
committee will indicate areas where adjust-
ments may be made that will enhance the
integrity of the legislation.

Time constraints require me to focus my
remarks on only a few areas. I focus on sev-
eral of these areas without wishing to suggest
that they are more important than other is-
ssues which have been or will be raised by
members of parliament and members of the
public.

First I will focus on disclosure offences.
The bill provides for a number of so-called
disclosure offences relating to preventative
detention orders. These offences are ex-
trremely serious. Each of them carries a pen-
alty of five years imprisonment. The inten-
tion behind these disclosure offences is un-
derstandable. It is to deter people from alert-
ing others who are involved in terrorist ac-
tivities. But, when you examine the proposed
offences closely and consider how they
might work in practice, issues arise which do
demand careful attention.

For example, take the situation of a female
minor aged between 16 and 18 who is de-
tained. In accordance with her rights under
this bill, she can phone her parents and utter
the words, ‘Hello, Mum. I’m safe, but I can’t
come home for a few days. I have been de-
tained under a detention order.’ She can
speak to her mother, and if her father is not
home she cannot communicate that fact to
her father—something that she is entitled to
do. But here is the problem. When the hus-
band does return, his wife, under this law as
framed at present, cannot tell him that his
dughter has been detained. If she does tell
him that the daughter has been detained, she
is breaking this new law and is liable for five
years in prison. Moreover, if a daughter who
has been detained is over 18, she cannot even
tell her mother that she is held under a deten-
tion order, under pain of five years jail. So
we have potentially five years jail for both
mother and 18-year-old daughter. And adult
detainees are not entitled to tell people that
they have been detained. It is a crime for
them to disclose that they have been de-
tained.

As far as I am aware, the UK law permit-
ting extended detention in relation to terror-
ism offences does not have disclosure of-
fences and imposes fewer constraints on
communication by detained people than are
proposed in the present bill. I am pleased that
the Senate Legal and Constitutional Legisla-
tion Committee has the capacity to obtain
evidence to assist it in coming to a view
about what, if any, restrictions on communi-
cation might be necessary, effective and rea-
sonable.
Regarding sedition, as the Attorney-General indicated in his second reading speech, these amendments were intended to modernise the language and not to comprise a wholesale revision of the sedition laws. But the fact is that the revival of a law that was either unknown or generally considered to be a dead letter has generated a great deal of concern. A number of legal commentators have drawn attention to potential restrictions on freedom of expression and communication which are not, I believe, intended and which, were they to eventuate, would be utterly unacceptable. For example, in the opinion of barristers Bret Walker—and I have a great deal of regard for Mr Walker—and Peter Roney:

The good faith provisions do not, in terms—which I understand is a legal term—allow any publication in good faith to be excused. It would have been a simple drafting exercise had it been sought to excuse, as the Attorney General suggests this Bill does, that the offences were not designed to prevent journalists from reporting in good faith. It seems to us that the Bill does not do anything to provide that assurance.

Walker and Roney conclude that there is considerable uncertainty about the implications for investigative journalism. They say:

That uncertainty indicates a difficult and undesirable aspect of this latest proposed manifestation of anti-sedition laws—laws which have a long history of difficulty, and opposition.

It is my view that the sedition provisions in this bill are problematic and they do require serious review by the Senate Legal and Constitutional Legislation Committee. That committee will have the benefit of submissions from legal and other experts. I understand that there will be significant submissions made to that committee when it reviews these bills. The advice of the committee to the parliament will be keenly awaited, and I welcome the Attorney-General’s assurance that he and his department will review the sedition offences and that he may refer some matters to the Security Legislation Review Committee.

Moving on from the issue of sedition, schedule 6 of the bill proposes to give the Australian Federal Police far-reaching new powers designed to make it easier for the AFP to obtain, search and seize information and documentation. The documents it covers include the details of financial accounts and transactions, travel accounts, the transfer of assets, telephone account information about calls made and received and the length of the calls, and other information which the Australian Federal Police consider on reasonable grounds will assist in the investigation of serious terrorism offences.

The Anti-Terrorism Bill (No. 2) 2005 also gives the Australian Federal Police far-reaching new powers to obtain, search and seize materials that do not relate to offences involving terrorism. I have not formed a view about the desirability of the proposed new powers in relation to non-terrorism offences, but I have to say that I am not clear as to why they have been included in a bill on terrorism.

I now turn to the issue of monitoring. It was agreed by COAG that the operation of the legislation would include safeguards against abuse through parliamentary review. Clause 4 of the bill notes that COAG agreed to review certain parts of the new legislation and certain state laws after five years. It provides that, if a copy of the review is given to the Attorney-General, the Attorney-General must table it in parliament. I do not believe that parliament should refrain from examining the operations of this legislation for five years.

The bill also notes that the Attorney-General must provide an annual report to the parliament about the operation of the legislation relating to control and preventative de-
tention orders. I believe that this reporting is important, but the information he provides may not be sufficient to allow the parliament to effectively assess whether the exceptional measures it has passed are working well enough to protect against terrorism and whether they are being applied fairly. Informed parliamentary scrutiny is essential in view of the potential for the law to be applied to people who are completely innocent of any involvement in terrorism, and the concern is that this may impact disproportionately on some groups or infringe unduly on rights such as freedom of expression. The impacts of the provisions of the bill need to be monitored.

Muslim and Arab Australians have expressed concern that they will be unfairly targeted. Anxiety has also been voiced on behalf of officials who will have a major responsibility for implementing the legislation. Several weeks ago, Mark Burgess, the chief executive of the Police Federation of Australia, spoke of police wanting legal protection against being sued for unlawful discrimination with respect to the proposed new stop-and-search powers. Mr Burgess said: ... it is inevitable that there will be unintended consequences of this legislation, and we just want to make sure there is some protection for police officers.

It is vital that we address the concerns of all groups seriously, as a matter of both principle and pragmatism. Parliament needs to ensure that the intelligence and law enforcement agencies have the necessary powers and protections to operate effectively. Equally, it must ensure that the application of the law does not lead to the alienation of community groups whose active participation is essential for the success of intelligence collection and law enforcement. Individuals who believe they have been treated unfairly will be able to complain to the courts and to institutions like that of the Ombudsman. But the fact is that not everyone who is aggrieved makes a complaint. The decisions of the court and the Ombudsman can provide only a small part of the picture. The government will receive ad hoc feedback from the Muslim community reference group which has been set up, but its members do not have the responsibility or the resources to inquire comprehensively into situations.

It is important that parliament identifies a credible mechanism for continuously reviewing the operations of this legislation. There are a number of options. One is to assign the task of review to an established or specially created parliamentary committee. The Australian Federal Police Association has expressed support for an ongoing, independent review of the counter-terrorism laws and suggests that this could be undertaken by a joint standing committee overseeing the activities of the AFP. Another is the model that the UK has adopted. Its counter-terrorism legislation has been active for some 20 years and has provided for the appointment of an independent reviewer—currently, Lord Carlile QC. Lord Carlile is able to conduct a broad assessment of the operation of the counter-terrorism laws, whether they are necessary and effective and whether they are being used fairly. In preparing his reports, Lord Carlile obtains information from official and other sources—the people who use the legislation and those who are affected by it—and has access to sensitive material.

Another approach is to have a periodic review—and for this there is an Australian model which is pertinent. The Attorney-General is required by the Security Legislation Amendment (Terrorism) Act 2002 to establish an independent review of the operation of counter-terrorism laws that have been in place since mid-2002. As the act specifies, he has appointed a review committee. It is headed by a retired judge, and its members
include the Inspector-General of Intelligence and Security, the Human Rights Commissioner and lawyers nominated by the Law Council of Australia. The review committee must allow for public submissions and hearings, and it will table its report in 2006. This model is excellent. However, it is a one-off review and, once the committee completes its task, it will disband.

The reality of the terrorist threat demands that we proceed expeditiously to put in place measures that are essential for the protection and safety of the community. The urgency of the situation requires us to be particularly vigilant about the legislation before us, to ensure that we enact no more than what is strictly required by the exigencies of the situation. We need to ensure that exceptional powers are balanced by effective safeguards. We need to ensure that we will be well informed about how those powers are used and that we can promptly remedy any defects or unintended consequences that become apparent.

In the course of its development, the bill has been substantially improved by the input of the states and territories, members of the backbench and its committees, and the party room. I believe that we now have an opportunity for all members of the parliament and individuals and groups outside of it to contribute their knowledge, perspective and experience to the legislation. Inevitably, there will be differences of opinion about what is necessary, fair and proportionate. The fact is that, despite the spread of views, they all need to be heard and considered. We must strive to achieve a deliberative process that continues the improvement of the bill—honoring it to ensure, as far as possible, both effectiveness and respect for fundamental rights. I look forward to participating in the debate.

Ms ROXON (Gellibrand) (1.07 pm)—I welcome that invitation from the member for Kooyong. Too often the debate about antiterror laws is portrayed as being a battle between those who fight terrorism and those who defend civil liberties. This is an utterly false choice. We cannot and should not do one without the other. If we abandon our freedom to fight terrorists, we simply do the terrorists’ job for them, but, if we fight terror only in the way that we fight regular crimes, we risk depriving our citizens of one of the most important of all liberties—the right to live with freedom from violence and fear.

Labor are determined to do all that we can to prevent a terrorist act in Australia. In order to do this, we accept and understand the need to give our authorities increased powers. These include, regrettably, powers to control and detain people who may not yet have committed a crime but who are on the cusp of committing crimes of unspeakable horror. Of course, in a strong and free democracy, you would prefer not to give police these powers—you would prefer to be immune from such threats. But, if circumstances force us to increase powers, our job here is to look at what is needed to tightly limit their use and at the strong safeguards that must be put in place to make sure they are not misused.

Labor are convinced that the terrorist threat does require tough new laws, but we demand that their use be circumscribed carefully. We are critical of the starting point of the Howard government, at first failing to give any serious attention to the need to put in place strong safeguards. This will be a major theme of my speech today. But before going to this, I note that Labor are pleased to see that the Anti-Terrorism Bill (No. 2) 2005 picks up many of the ideas for fighting terrorism that we have advocated for some time. In particular, the bill implements the Leader of the Opposition’s idea to introduce
a uniform national regime for emergency stop and search powers—an important step that will help federal and state police cooperate where the battle against terrorism counts the most: on the ground. We note that the bill picks up Labor’s idea on the use of closed-circuit television and, after many months of pushing, some measures to tackle the issue of terrorist financing. These are just some of the practical measures in the bill that Labor have consistently advocated, and I note the comments made by both the member for Brisbane and the Leader of the Opposition and the second reading amendment that goes to these issues.

The most controversial aspects of the bill concern preventative detention and control orders. Both of these proposed regimes involve serious restrictions on the free movement of terrorist suspects. Under our normal system of law, restrictions such as these—especially those involving detention—would not be acceptable in the absence of a criminal prosecution. The proposed regimes are a critical conceptual departure from regular criminal law: they focus on future events, not past conduct. Necessarily, it is a departure that anyone would prefer to avoid because it unsettles so many of the principles of criminal justice that underpin our free society. But terrorism is a crime that challenges many of the assumptions that our criminal justice system rests on. The traditional emphasis on punishment and deterrence has no effect on those prepared to die in the act of killing. And because terrorists plan crimes that kill and injure on such a vast scale, our police need the tools to catch terrorists before they bring their crimes to fruition.

This is an entirely new emphasis for law enforcement, and it demands new legal tools, including the option of control orders and short-term preventative detention where these can prevent imminent terrorist attacks. These powers, however, must apply in only the most limited and serious circumstances and only to people who actually pose a direct and immediate threat. Terrorism may demand some departures from our traditions, but it is not an excuse for junking them wholesale.

The government originally proposed an extreme and entirely unpalatable plan that would have operated too widely and without supervision. Following pressure from federal Labor, the premiers and the community, the scheme under this bill is much improved, and control orders and preventative detention will now only apply in tightly limited circumstances. In making control orders, courts will have to consider each proposed restriction and weigh the possibility of preventing a terrorist attack against the effect the order will have on the subject’s personal circumstances. Preventative detention will only be available where there are reasonable grounds to suspect that detention of the subject will prevent an imminent terrorist attack—an attack expected in less than 14 days—or where an attack has occurred within the last 28 days. These powers are now strictly restricted, time limited and subject to merits and judicial review—even compensation after the event if it has all gone horribly wrong.

We are convinced of the need for these new tools in the fight against terrorism, but we still have some concerns about the way the government proposes that these powers work. These concerns—and Labor’s proposals to fix them—are outlined in detail in our second reading amendment, along with a range of other measures that might prove more practical in tackling the challenges that we face. Labor want the government to allow the parliamentary process to go through the legislation with a fine toothcomb, to press for better safeguards and to iron out other problems in the bill. The government has resisted this at every step: the secrecy around...
the early drafts, the plan to rush through debate on Melbourne Cup Day and the idea of a one-day Senate inquiry. Piece by piece, Labor and the community have forced the government to take just a little more time.

Some of the outstanding problems I will outline below in more detail. These include the proposal to give retrospective effect to the Anti-Terrorism Bill 2005, which we passed last week; the unreasonable restrictions on communications between detainees and families; the breadth and reach of the provisions relating to the advocacy and financing of terrorism; and any remaining question marks over the bill’s compliance with our Constitution and international law. These and other provisions are complex and it is vital to get them right. Our fight against terror will not be well served by poorly drafted and ill-considered legislation. We have not been permitted sufficient time to debate all of these issues in the House, but I hope at least that the government will be open minded about recommendations that come through the Senate committee process.

So let me address a key issue for Labor. If we are to have tough counter-terrorism measures, we must have strong safeguards. There are three types of safeguards that Labor has been urging the government to adopt: real judicial scrutiny, well-resourced independent oversight agencies, and proper and effective parliamentary responsibility and scrutiny. These safeguards are always important, but they will become critical with the passage of this bill. If they are not adopted by the government during the passage of debate on this bill, they will continue to be pursued in the future as Labor policy.

Safeguards are needed to protect against misuse. This misuse can take many forms, from corruption at one extreme to simple carelessness at the other. With powers as tough as those proposed in this bill, even an honest mistake could turn an innocent person’s life upside down. Unfortunately, when we look at the immigration department we see recent examples of where a lax approach can go wrong. What the immigration department scandals, like the infamous cases of Vivian Solon and Cornelia Rau, show is that we cannot rely on trust alone. We cannot simply trust ministers to make sure that abuses of power do not happen. In fact, the very person who will have oversight of these proposed laws is the same person whose incompetence as immigration minister left a trail of human tragedy we are only now beginning to discover.

The comparison is particularly important given that both immigration detention and the proposed preventative detention regime turn on a reasonable suspicion test. Reasonable suspicion is a difficult system to administer. It requires officers to be exceptionally well-trained and well-managed. We need to get the test right: of course we want to catch every terrorist, but we do not want to be so gung-ho that innocent people are locked up. The strong safeguards, checks and balances that were missing in DIMIA must be implemented here.

At the COAG meeting, all parties agreed that any regimes to control or detain terrorist suspects had to be subject to judicial scrutiny. At the time, the Prime Minister said he was ‘never trying to pull swifties on judicial safeguards’. Yet the first draft of his bill to become public appeared to show that that was exactly what he was trying to do. Sure, judges were in there, but in little more than a rubber stamp role, hardly enough to even provide cover to the Prime Minister. Real judicial scrutiny means giving the subject of a control order or detention order the chance to be informed of the grounds for the order and a chance to seek speedy substantive review of the order, with an opportunity to be heard and with the onus resting on the police
to show why the order should stand. These are the minimum requirements of fairness. Fortunately, the government responded to the demands for judicial scrutiny made by Labor federally and in the states. The result is that the bill before us bears little resemblance to the extreme package the Prime Minister and Attorney-General originally proposed.

It is a bizarre and worrying reminder, however, that the government even presented a draft bill in the form we first saw. You would have had less right to challenge a control order than a parking fine. It made Kafka’s *The Trial* seem like the script for a reality television show. When federal Labor saw this draft bill we were appalled. We knew the Howard government had an extreme new edge since its re-election last year, but we had no idea it had gone that far. Thankfully, the government has now seen some sense. In the version of the bill we are debating today there is a very real role for the courts. Only an interim control order can be obtained ex parte. Then a court must conduct a confirmation hearing where everything is reconsidered, all of it in substance. Importantly, the subject will now be entitled to receive a summary of the grounds for the order and, at the confirmation hearing, the onus of proving that the control order is necessary will lie where it belongs— with the police, not the subject of the order.

These are very important improvements. They protect our basic freedoms without in any way compromising the effectiveness of the regime to fight terrorists. They mean that the government cannot simply round up people they do not like the look of. Instead, they will be required to put together a strong case for a control order and argue it before an independent court. Issues do remain about what evidence might be excluded from the summary of grounds and about the lack of a clear timetable between the interim order and the confirmed order. On this second point, our second reading amendment makes a modest but sensible recommendation: that the confirmation hearing should be required to be ‘as soon as reasonably practicable’, not months after the interim order is first granted. These are matters that the Senate committee needs to consider.

The preventative detention regime now requires a subject to be given a summary of the grounds for their detention, and they have clear rights to seek judicial review. They will also have a right to seek merits review and obtain compensation if the detention is found to be unmeritorious. There are several further outstanding issues that will have to be considered by the Senate committee, not least of which is the constitutionality of this plan. Serious questions remain as to whether the bill offends the separation of powers by requiring the courts to fulfil an executive function, notwithstanding that judges in the preventative detention regime will be acting in their personal capacity.

While these judicial safeguards in the legislation are important, we need more than these. We also need independent oversight bodies to monitor the agencies using these powers to make sure there is no abuse— no cutting corners, no mistreatment of detainees, no falsifying of information and no over-enthusiasm. Funnily enough, 18 months ago the Howard government made its own promise to create an integrity commission to oversee the AFP, but, despite the rush to get this bill through the House, the legislative base for its earlier commitment has not even surfaced. The Prime Minister is happy to pretend to copy the laws of the United Kingdom but then fails to look at the United Kingdom’s important safeguards, which include the Independent Police Complaints Commission. As we look at strengthening police powers to deal with terrorist suspects, we should simultaneously be looking at creating a body like this.
As mentioned by the member for Brisbane, another oversight body that needs urgent attention is the Inspector-General of Intelligence and Security, which oversees ASIO, ASIS and DSD. The organisations it oversees have grown dramatically in recent years, but IGIS’s resources have not kept up. Further, as Labor has outlined in its second reading amendment, we should look at establishing a national public interest monitor modelled on the position that has been created in Queensland. The public interest monitor deals with ‘front-end’ accountability—making sure the correct processes are followed and that decision makers have access to all the relevant information and arguments.

The third important type of safeguard is parliamentary scrutiny. The most important form of parliamentary scrutiny should be in the legislative process itself. After all, the most basic principle of our democracy—the concrete slab upon which the entire system is constructed—is that the parliament makes laws, not the executive. If the Prime Minister treats this most basic process with contempt, using the weight of numbers on his cowering backbench to rush through important legislation—as he has with the sale of Telstra bill, the industrial relations bill this morning and now this one—what hope do we have that he will pay any respect to other important forms of parliamentary scrutiny, such as committee processes, questions and reporting?

Accordingly, Labor wants to see protections of these processes put into the legislation. The extraordinary powers proposed in this bill require direct and rigorous parliamentary review. As indicated in our second reading amendment, Labor would like to bring the AFP under the oversight of the Joint Parliamentary Committee on ASIO, ASIS and DSD. This committee has experience in dealing with terrorism and security issues and should have some oversight of the use of control and preventative detention orders. At the same time, we should be looking to expand the powers of that committee, especially to demand and receive classified information. If it is to do its job properly, this is imperative.

We should also have more regular reporting on the use of powers than is proposed under this bill. Under the bill, the Attorney-General would be required to report only annually to the parliament on the use of control and preventative detention orders. This reporting will allow parliament to monitor whether there is any misuse or overuse of these powers, but it is hard to know whether we will get any sense of how they are being used, or whether they remain necessary, if we do this only through an annual reporting method. In the UK a similar report to parliament is required every three months. This is a much better time frame because it allows parliament to track any misuse as it happens and take action quickly. If, as Harold Wilson famously observed, a week is a long time in politics, then 12 months is an eternity. If parliament is to have any hope of shining a light on abuses—if they arise—it needs to be done quickly to make sure the responsible minister can be held to account and the process can be stopped.

Let me quickly deal with the important issue of sedition. These provisions should not be in this bill at all—they were not part of the COAG agreement and they have not been well thought through or well drafted. Even the Attorney accepts that these laws are inadequate and has committed to a review of the new law. But he wants us to enact them first and then have his review later. It is preposterous to suggest that we should pass bad laws and then review them after we have been asked to vote on them. Of course we can see the benefit in updating or removing antiquated sedition laws, but the sensible course would be to review the issue before
we make the law, not after. Unlike the rest of this bill, no case has been made that we need the new sedition laws with any urgency. The existing laws are surely adequate to hold us over for a few more months so that the job can be done properly.

There is no sensible reason why schedule 7 should not be separated from the rest of this bill. We call on the government to remove schedule 7 from this bill. The House will be requiring that all members on the other side of the parliament who similarly have concerns about the sedition provisions will have the opportunity to express that view not just in debate but when we require a vote on the issue of whether or not these sedition provisions should be separated from the rest of the bill. If the government refuses this sensible option, we will nevertheless seek to amend the provisions to ensure that the right to peaceful protest and criticism of the government is protected. This is a really important issue and it can be fixed. The government should take steps to fix it now and let us concentrate on the real counter-terrorism measures in this bill and not be diverted by a debate about sedition which we do not need to have at this time in this place.

Fighting terrorism is a first-order issue of principle for Labor. As we have stated in our second reading amendment, securing the community from terrorism and ensuring our citizens live in freedom from fear are among the highest and most fundamental tasks of government. This is the obligation of all governments, but it is a task with special resonance for the Australian Labor Party. If there is a terrorist attack in Australia, it is our people, our core constituents, who will be killed and hurt—workers, people on trains or buses or in shopping malls, families and kids—regular Australians simply going about their day. These are the people Labor has represented for over a century. If we are to serve them as they deserve, we must take an uncompromising stand against the terrorists, who care nothing for their lives and would stop at nothing to murder and maim them in the pursuit of their ideology of hatred.

Ensuring freedom from fear does not require only that we defeat terrorists. Australians also need to be free from a fear that the powers of the state can be misused or that innocent people can be caught up unfairly in systems designed to catch criminals. Labor has proudly advocated multiculturalism and represents and works with many communities who might already feel this fear more acutely—refugees, the disadvantaged and some ethnic and cultural groups. We have always embraced and encouraged these communities. It is very important to acknowledge in this House that, in the current environment, many Muslim Australians might already be feeling this fear. They need to be reassured, in practice as well as in words, that it is terrorists, not Muslims at large, who are targeted by these laws. Our proposals would help demonstrate this by making it clear that capricious, arbitrary or racist actions will not slip through unnoticed as part of this regime.

A Beazley Labor government would implement laws that will get the balance right—a plan that is tough on terrorism but has strong safeguards. As it is, we are debating a less than perfect plan by the Howard government. Labor will support these measures on the basis that it is in the national interest to provide our agencies with additional tools to prevent terrorism. But we urge the government, for the sake of the community, to pick up our proposed improvements. If they do not, we will continue to campaign right up until the next election for the improvements that we have proposed.

Mr CADMAN (Mitchell) (1.27 pm)—I guess most of us would prefer that the world
was a bit different and that we did not have to pass legislation such as the Anti-Terrorism Bill (No. 2) 2005. But we do have to. The fact is that since September 11 in the United States, democracies have to take steps such as this. We have also seen terrorist attacks in freedom loving democratic countries such as Britain and France which have threatened not only their way of life but also the very values they stand for. This legislation will protect our society and the typically Australian values which have been developed since the establishment of this nation. We need to balance individual freedom and preserving the freedoms that we love and value against taking charge of those who do not share those values or who want to destroy them. This is a very careful balance that has been considered by the leaders of the country—the premiers, the Prime Minister and the Attorney-General. They have come forward with a proposal which we are adopting today and which will be scrutinised by the Senate. We need to listen very carefully to what those leaders have said. They have a variety of backgrounds and views and they are from different political parties.

It is interesting to listen to the Australian Labor Party. They are wannabes—they want to be part of the action from the sidelines and they claim that most of this bill is theirs. That is not true. The antiterrorism legislation we are considering today is the combined effort of our current leaders and they are unified in what we should do. Has the process been difficult? No, it has been fairly rapid and without too much contention. I think that one has to congratulate all the leaders for the way in which they have worked together, all except perhaps Jon Stanhope. I think that was unforgivable and he deserved to be left out of the process. Premiers are properly charged with leading sovereign states and they are properly charged by the people of their states to fulfil their obligations as head of those states.

The previous speaker spoke about the need for oversight of the provisions and compared the potential of antiterrorism activity and the activity of agencies within government, both federal and state, with the problems that have emerged in the Department of Immigration and Multicultural and Indigenous Affairs. The previous speaker, who is the shadow Attorney-General, claimed that a parliamentary committee might solve all of the problems by oversighting this legislation. A parliamentary committee, which is a standing committee of the House, has failed to do anything about the problems in immigration and that committee has been there for years. So the oversight of a committee is not a protection. The legislation and the laws that we write are part of the protection, our capacity to investigate where necessary, the involvement of the Ombudsman and a review. These are complex processes and I do not know how a federal parliamentary committee can possibly investigate state police or the activities of the administration of those police forces or the powers that they have. This has to be done by a cooperative process and that is the one that has been established and is working.

Even as late as last weekend members of the Australian Labor Party in this parliament were suggesting that the legislation that we had to deal with so quickly last week may have been an opportunist move by the Prime Minister. They wanted to criticise him for doing something that was absolutely essential but they would be the first to criticise him if he had done nothing. That is just gainsaying for the sake of having your foot in the door and saying something in public. That is not constructive opposition. That is not the way to win an election. It gains no respect in the community. One has to accept that occasionally things such as we did last week with
the approval of the opposition—but a sort of grudging approval; it should not have been there and there was no need for it to be there—have to be done. Time will prove whether what the Prime Minister said at the time was right or not. That is what the Prime Minister accepted when he came into this chamber and said, ‘We need to make these changes as a matter of urgency. I’ve taken the best advice that we need to make these changes and the premiers have agreed.’ But there were still grudging remarks over the weekend by the spokesman for the Australian Labor Party, Arch Bevis, about the Prime Minister’s motives. I cannot believe that somebody would be so small-minded, especially one who is charged with security factors and has access to full briefings—something that you and I do not have, Mr Deputy Speaker—with all the knowledge that has been freely given, to then be grudging in the process. Thank goodness, we passed that legislation.

Why is this legislation necessary? Because its fills out a complete kit, if you like, of legal attributes necessary in cooperative efforts between Australian agencies, national and state, to deal with terrorism. On 27 September COAG met to consider Australia’s national counter-terrorism arrangements. Officials had been working for two months prior to that and COAG met to finalise the arrangements. There was unanimous agreement out of that meeting that there should be major changes to enhance Australia’s security. So the premiers at COAG with the Commonwealth leaders agreed that there should be enhanced security in Australia.

What are the proposals that have come forward? There are things called control orders; provisions for preventative detention; the capacity to stop, question and search; the notice to produce information; extra access to airline passenger information; a clarification of terrorist offences; a process for better defining terrorist organisations or organisations that advocate terrorism; and a process which deals with sedition—an old-fashioned term—but one that needed changing and bringing up to date. Some people have said during this debate, ‘Why didn’t we wait and do sedition on the way?’ The fact of the matter is that the leaders of the country have agreed that it needs to be done and it needs to be done now. That is what we are passing through the House. To come back to something like this, provided we have the basic protections in place, is a very sensible process. There is also a section to do with leaving baggage unattended and threatening aviation security.

Let me speak first of all about control orders. The new regime will allow the Australian Federal Police to seek from a court a 12-month control order on people who pose a terrorist risk to the community. The types of controls will include a prohibition or restriction on a person being at specific areas or places or on a person leaving Australia. It can be a restriction on a person communicating or associating with specific individuals. It can be a restriction on a person accessing or using specified forms of telecommunications or other technology such as the internet. It can be a restriction on a person possessing or using specified articles or substances or a person carrying out specified activities including in respect of his or her occupation. So control orders will be aimed at restricting a person’s capacity to do certain things.

A control order may also include a requirement for a person to remain in specified premises between certain times of each day or on certain days. It may require a person to wear a tracking device. It may require them to report to specified people at certain times and in certain places. It may allow him or her to be photographed. It may, if the person consents, require them to participate in speci-
fied counselling or education. Those are the requirements that may be imposed under a control order. I think we can all understand why, if the intent of persons associating with others is to cause damage but you do not have the specific knowledge and precise details of what that may be, we need to make sure they are not up to harm but can be restrained in that way.

The AFP must consider on reasonable grounds that issuing a control order would substantially assist in preventing a terrorist act or that a person has trained with a listed terrorist organisation before applying for the control order. The Attorney-General must consent to the application, and if the Attorney-General consents the Australian Federal Police may apply to a court for the issuing of a control order.

There are a few checks. The AFP have to be certain, and then, if the Attorney agrees, the Australian Federal Police may apply to a court—a very sensible process of a double check there. The court must be satisfied on the balance of probabilities that issuing the control order would substantially assist in preventing a terrorist act or that a person has trained with a listed terrorist organisation. In addition, the court must also be satisfied on the balance of probabilities that each of the controls in the order is reasonably necessary, and reasonably appropriate and adapted, for the purpose of protecting the public from a terrorist act.

The bill also allows an ex parte interim order to be issued followed by a court hearing at which a more permanent order can be made. This will ensure a full hearing by a court on the merits of the order will have been held before a permanent order is issued. The person who is the subject of the order would be represented at the hearing. Control orders would not apply to people under 16 and would apply in a modified way to people between 16 and 18. Each year the Attorney-General would report to the parliament on the operation of the control orders.

Preventative detention is another aspect of this legislation. The Australian Federal Police will be permitted to detain a person under an order for a maximum of 48 hours. State legislation will permit state police to detain a person up to 14 days under the same conditions. The Australian Federal Police must have reasonable grounds that making the order would substantially assist in preventing a terrorist attack where a terrorist act has occurred and also allow them to preserve the evidence if that had happened. An officer may issue an order for an initial 24 hours; that period could be extended by an issuing authority for a further 24 hours only. The total detention period allowable under the preventative detention orders is 48 hours—that is all; two days—and people are not to be questioned during that process. I think that is a measure that needs re-examination. What is the point of locking somebody up if you cannot ask them a few questions?

An issuing authority would be a magistrate or a judge who agrees to act as an issuing authority in their personal capacity. A person detained should not be questioned except for confirming their identity. Any preventative detention order, as well as the treatment of the person detained, would be subject to judicial review and could be subject to investigation by the Commonwealth Ombudsman.

They are sound protections, and anybody who is really worried about these processes needs only to look at the care with which the Prime Minister and the premiers have put this legislation together. We need to be hard but we need to be fair, and I think that is the outcome of this legislation. Sure, we will find as time passes, as we do with a lot of
laws of Australia, that changes can be made and improvements made.

A person detained would be given an opportunity to contact a lawyer for these purposes as well as being entitled to contact a family member and an employer solely for the purpose of letting them know that they are safe but are not able to be contacted for the time being. I think that is an on-balance sort of arrangement. I think that anybody familiar enough with the way in which terrorists act know that a message can be passed even by those simple processes—and so the contact with family. Very often in these circumstances the family members are in full knowledge of what is going on and to pass a message to them that could be conveyed to others seeking to do damage is something that I think we need to be careful of.

In some circumstances the right to contact a lawyer or other person could be limited. For example, if there were facts or grounds to suggest that the lawyer or other person is linked to the terrorist act, the contact with the lawyer or other person would be monitored to ensure that the communication relates solely to the purposes permitted under the legislation. Where the person is unable to contact their nominated lawyer for security reasons, access to a security cleared lawyer would be offered to them. That is reasonable; their legal rights are protected under all circumstances.

Preventative detention will not apply to people under 16, as I have said, and there will be special measures for 16- to 18-year-olds. Preventative detention will be subject to full merit review after the order has been executed. Therefore, the purpose of merit review will be to adjudicate on the awarding of damages if appropriate. Consistent with Australia’s international human rights obligations, any person being preventatively detained must be treated with humanity and respect for human dignity and must not be subjected to cruel, inhumane or degrading treatment. Any official who fails to treat a person detained in this manner will have committed an offence punishable by two years imprisonment. Each year the Attorney-General will report to parliament on the operation of preventative detention orders.

The stop, question and search powers for the Australian Federal Police have been extended to allow police officers to stop a person who is in a Commonwealth place either where the officer suspects on reasonable grounds that the person might have just committed, will be committing or might be about to commit a terrorist act, or where the person is in a prescribed security zone in a Commonwealth place. The officer can ask the person’s name and search the person and their belongings for items the officer reasonably suspects may be used in a terrorist act or in connection with preparation for a terrorist act or may be evidence of a terrorist act. If the officer locates such an item or evidence of another serious offence, the officer can seize the item. The new regime, which is modelled on division 4 of the Australian Federal Police Act 1979, consists of a number of safeguards to ensure the powers are exercised appropriately.

The bill provides a new notice to produce a regime to facilitate lawful Australian Federal Police requests for information that will assist in the investigation of terrorism offences. Under the regime, the Australian Federal Police can require the production of documents that relate to matters such as bank accounts, travel and telephone usage. Where the investigation relates to a serious terrorism offence, the request can be authorised by the Australian Federal Police.

Organisations and advocacy concerning terrorist acts are dealt with in this legislation.
They are an important part of the process because we have heard many statements—some of them quite wild and some of them derogatory of other faiths or nations—made in Australia over recent years. They seem to have increased in intensity and these can cause great offence and, because of the hatred or fears that are generated, incite others to commit acts that normally they would not. This legislation seeks to cover and discourage those actions and, should they be persisted with, can deal with them through the processes of law. I endorse this legislation. I have sat through many hours of consideration. I think it is balanced and I think it is the way to move ahead. *(Time expired)*

**Ms MACKLIN** (Jagajaga) *(1.47 pm)*—The bill we are debating today, the Anti-Terrorism Bill (No. 2) 2005, will fundamentally alter the balance of national security and civil liberties in this country. There can be no doubt about this fact. The delicate and important balance between the protection of the community from terrorist attacks and the protection of individual rights will be significantly changed. This balance is crucial because the only strong and effective national security law is a balanced law—one which reflects the focus this society has on protecting community and individual rights and one which is understood and supported throughout the community. Laws which are imposed without explanation or consultation are bound to fail in their stated objective of protecting the community.

This parliament has an important duty to explain the need for laws such as those before us today and to strive to strike the right balance. Most unfortunately, this government has put responsibility for getting this balance right in the hands of the current Attorney-General, Mr Ruddock. This is the man who expected this parliament and our state governments to meekly accept the massive rolling back of individual rights that formed the basis of original versions of this bill. I do not think anyone should forget that the original bill was designed by this Attorney-General. This Attorney-General was asking the Australian people to grant sweeping and unregulated new powers to him. Remember that this Attorney-General is the man who was responsible for what we now have as an utterly dysfunctional agency undertaking border security in this country. The disaster and tragedies of the Department of Immigration and Multicultural and Indigenous Affairs provide a salutary reminder of the outcomes of allowing a dangerous and incompetent minister to have extreme powers without parameters and without security.

We should also recall that this is a government which used false information about weapons of mass destruction to justify the invasion of another country without United Nations sanction. We need to clearly acknowledge today that Australia’s involvement in Iraq has not made Australians safer at all. In fact, our involvement in Iraq has, in Australia, made for more of a terrorist threat—

*Mr Cadman interjecting*—

**The DEPUTY SPEAKER** *(Hon. IR Causley)—Order! The member for Mitchell has had his turn!*  

**Ms MACKLIN**—and it is that increased terrorist threat which has forced this legislation into the parliament today. On the issue of misuse of security information for political purposes, of course this government have form. We have to remember that the current Attorney-General played a central role in the ‘children overboard’ untruths which had such tragic results in the incarceration and deaths of so many men, women and children. So we need to keep these things in mind when considering the nature of all proposals that come from this government that give them such increased powers.
This is not the first time that this parliament has dealt with a significant extension of counter-terrorism powers. In 2002-03, Labor was determined that any new laws very specifically target identified risks and, most importantly, that the parliament and the people of Australia had time to carefully review the legislation and put forward improvements. Labor had very able and experienced members of the Joint Select Committee on the Intelligence Services, including Kim Beazley and Senator Robert Ray, and that committee heard highly confidential information on terrorist risks and the need for powers directly from the security agencies involved. None of this leaked, and the committee made an extremely valuable contribution to the legislative process, as did the relevant Senate committee, which undertook a much more public appraisal of the bill and its effect on the community, including taking submissions from a wide range of community organisations.

At the time, even the Prime Minister reluctantly agreed that the parliament on that occasion had done its job properly when he admitted that the parliament had got the balance right. The Prime Minister seemed to understand at that time that the delicate balance involved with this kind of legislation was necessary. Why, then, has he forgotten it this time? You would have to say that it could only be because he now has complete control in the Senate. But, for the long-term cohesion of the Australian community, the parliament should follow a careful consultative path. Unfortunately, this Prime Minister has been determined to crash through or consult or change only when backed into a corner, all the while refusing to take the parliament or the Australian people into his confidence.

In relation to the bill before the House today, we have seen no move from the government to have the joint intelligence committee involved in scrutinising the need for the proposed extension of powers. Instead, the Senate committee must conduct a narrower and very foreshortened inquiry into these very far-reaching proposals. I must say that the Senate inquiry we have ended up with is better than the government started with; they wanted only one day. That is something. I firmly believe that the consultation and inquiry process last time, when the parliament actively sought and took account of the community’s views on these extremely sensitive issues, actually had the effect of calming the more extreme views on the legislation and assisted in developing community acceptance of those laws.

One of the features of the 2003 legislation was the built-in review mechanism, where the appropriate parliamentary committee was authorised to undertake a careful and considered inquiry into the operation of the new powers under that act. The Joint Committee on ASIO, ASIS and DSD is currently undertaking that very sensible review process, with serious focus on the question of whether to extend or abolish the sunset clause on the legislation. They are due to finalise that process in January next year. We should remember how important it is to have these processes that allow extra scrutiny. This time just a few senior members of the government and the opposition have been briefed by security agencies on the current nature of terrorist threats, and it is the case that this information was also provided to state and territory leaders before they finalised the Council of Australian Governments agreement. But building community acceptance for these changes requires more than this, so I would urge the government to have a longer Senate inquiry and to have more significant processes that allow the community to be brought with them, especially when proposing such major changes to the nation’s security laws.
The Prime Minister has been very clear that many of the specific proposals that we are examining today have been taken from the United Kingdom’s Prevention of Terrorism Act 2005. All the new UK antiterrorism powers need to be seen in the context of their Human Rights Act 1998 and the European Convention for the Protection of Human Rights and Fundamental Freedoms, which entrenched judicial review of both the actions of law enforcement agencies and the counter-terrorism laws themselves. These British protections guarantee the availability of a range of judicial remedies and allow the courts to consider in individual cases whether the reduction of the applicant’s rights is proportionate to the threat. These UK and European safeguards do not apply in Australia, and it is for this very reason that this parliament should deliberately insert proper and reasonable safeguards into any national security measures we adopt that are along the UK lines.

These protections certainly did not exist in the first version of the proposed new laws put to the states and territories, but I am pleased to say that improved safeguards are now present in this bill due to the concerted action of federal, state and territory Labor and, of course, the community outcry over recent weeks. It is the case that, for some weeks, Labor has been pointing to the inadequate provision for comprehensive judicial review, for independent and powerful oversight of all security and policing operations and for a proper scrutiny role for this parliament and its committees. These are important protections, and I am very pleased that state and federal Labor have worked together to achieve significant change to the final form of the bill that we have before us. We need to clearly recognise the changes which have been made during the drafting of this legislation, including the withdrawal of the shoot to kill provisions. The original provisions certainly went much further than the Australian public was prepared to accept.

There is now much improved judicial scrutiny of control orders. Now only an interim order may be obtained without the presence of the person subject to that order. At the confirmation hearing for the order, the respondent will have access to a summary of the reasons for the order. This previously was not going to apply. The person will be able to make arguments about why that should not apply. Also, the judge is required to specifically balance the need to protect the public against the effect of an order on the individual—for example, the loss of their liberty. The onus of proof at the confirmation hearing will be where it appropriately belongs: with the police rather than the individual.

The bill now requires much clearer rights of review in preventive detention, including the right to receive a summary of the reasons for detention, a clear requirement that the issuing authority must re-examine the police case, the right to judicial review of the lawfulness of the detention and, very importantly, a right to judicial review of the merits of the case, with possible compensation after the detention. Finally, the bill now legislates for an independent review after five years. This was a feature of the COAG agreement but was left out of the first bill altogether. I seek leave to continue my remarks when the debate is resumed.

The SPEAKER—Order! It being almost 2 pm, the debate is interrupted in accordance with standing order 97. The debate may be resumed at a later hour and the Deputy Leader of the Opposition will have leave to continue speaking when the debate is resumed.

QUESTIONS WITHOUT NOTICE

Workplace Relations

Mr BEAZLEY (2.00 pm)—My question is to the Prime Minister. Does the Prime
Minister realise it is now 22 days since he first ducked my challenge to a national industrial relations debate? On the day the government has rammed through its extreme industrial relations laws—which have no mandate, no economic case, and which cut Australia’s wages and conditions—will the Prime Minister now stop hiding and face me in a national debate?

Mr HOWARD—The Leader of the Opposition has a strange definition of the concept of hiding, when no bill in the 9½ years that I have been Prime Minister has been more extensively debated than has this legislation.

National Security

Mrs DRAPER (2.01 pm)—My question is addressed to the Attorney-General. Would the Attorney-General update the House on the progress of measures to allow the prosecution of people suspected of terrorism offences in Australia?

Mr RUDDOCK—I thank the honourable member for Makin for her question. The government has worked hard to ensure that there are strong legislative frameworks in place to combat terrorism with tough laws that target terrorist activity. We know that terrorism does not respect our borders and our jurisdictions, so we need to be able to reach around the world. The government has acted to address this with measures to allow important evidence to be brought to a court using videolink technology. The new videolink provisions will apply to the prosecution of terrorism and related offences and to proceeds of crime proceedings relating to terrorist offences. Provided the defendant’s right to a fair trial is not infringed, evidence can be adduced by videolink.

The new measures strike a balance between facilitating the admission of videolink evidence for both prosecution and the defence and ensuring that fundamental safeguards are maintained. The court can require that an independent observer be present at the point where the witness is giving evidence by videolink. This is a safeguard that will ensure that the court is aware of circumstances under which the evidence is being taken.

I am also pleased to be able to advise the House that the public response to the national security hotline is continuing. I am advised that the hotline has received more than 600 calls a week. More than 470, or close to 80 per cent, of these calls have provided valuable information which could be useful in counter-terrorism investigations. It is quite clear from the comments of the Federal Police Commissioner, Mick Keelty, that information from the hotline is a valuable resource for investigators, and obviously we thank the Australian community for their assistance.

Members should also be aware that, as planned several months ago, the latest round of advertising for the national security hotline will begin this Sunday. The government is getting on with the job of combating terrorism at a variety of levels, from increased funding to our operational agencies, to terrorism offences and the tools to prosecute the offenders.

Workplace Relations

Mr STEPHEN SMITH (2.03 pm)—My question is to the Prime Minister. Prime Minister, where in the 19 pages of the Liberal Party’s 2004 election commitments on industrial relations was the commitment to abolish the no disadvantage test, thereby removing the safety net protection for penalty rates, overtime, leave loading and shift allowances; to remove the setting of a fair minimum wage from the Industrial Relations Commission; and to abolish unfair dismissal protection for employees in workplaces of up to 100 staff? Isn’t it the case that it was only
after the government got total control of the Senate that the Prime Minister decided to ram through the government’s 1,252-page package of extreme industrial relations legislation?

Mr HOWARD—The government’s commitment to industrial relations reform is well known—very well known indeed. It has been very well known for a very long period of time. It remains the fact that this House has now passed the legislation and it will be up to those in another place to decide whether or not they give it the same measure of support.

I believe that these measures will strengthen the Australian economy. They will create more jobs. They will lead to higher wages. They will not bring the end of the world. The sky will not fall in. People will not be murdered at picket lines. Brother will not be turned against brother. Friend will not be turned against friend. In 12 months time, the people of Australia will wonder what all your hullabaloo was really about.

DISTINGUISHED VISITORS

The SPEAKER—I inform the House that we have present in the gallery this afternoon members of the Chinese Budget Affairs Commission from the Republic of China. On behalf of the House, I extend to them a very warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Terrorism

Mr BALDWIN (2.05 pm)—My question is addressed to the Minister for Foreign Affairs. Would the minister update the House on developments in the fight against terrorism in Indonesia?

Mr DOWNER—Firstly, I thank the honourable member for Paterson and particularly acknowledge the role he played in helping his constituents who were so grievously affected by the second Bali bombing. It is nice for him to ask a question in front of the students of the Dungog Primary School who are here today, a school strongly supported by this side of the House.

Reports overnight indicate that Jemaah Islamiyah’s master bomb maker and one of South-East Asia’s most wanted terrorists, Azahari bin Husin, has been killed in the course of a police raid on a house in Batu in East Java. The Indonesian police were raiding the house following information that Azahari was present, but I would issue a word of caution that we cannot be 100 per cent sure that Azahari was one of the three people who have been found dead in that house, apparently as a result of suicide bombings on their part during the assault on the house. DNA tests will be done to endeavour to establish whether it was indeed him.

If this was Azahari, then, whilst of course we do not wish people to be killed, it nevertheless has to be said that his no longer being capable of participating in terrorist activities will be a very good thing. His deadly bomb-making skills have been implicated in both of the Bali bombings, on 12 October 2002 and 1 October 2005. I remind the House that those two bombings killed 92 Australians. Azahari was implicated in the Marriott bombing of 2003, when 11 innocent people were murdered, and the bombing of our embassy in Jakarta on 9 September last year, when 10 innocent Indonesians were killed.

There is no doubt that Azahari and Noordin Top, who is still on the loose, are the two most wanted terrorists in South-East Asia. If one of them is no longer active—to put it that way; if he has been killed—then the fact that he can no longer kill other people is a very good thing.

Just in case there is some controversy about this in Australia, let me say that this
demonstrates the determination of the Indonesian government to crack down on terrorism in, frankly, a pretty difficult environment. The Indonesian police have been extremely effective in countering terrorism. They have worked very hard at it, and often they have worked very courageously—let us not forget that. Apparently in the assault on this house one Indonesian policeman was shot in the leg. So they have been courageous but they have also been determined.

I did not say anything about it at the time, but the House may have noted last week that the Indonesian government decided not to extend remission to Abu Bakar Bashir. I think we should all be careful what we say about that, but it was a decision by the Indonesian government that simply demonstrates the point that they are taking the issue of terrorism very seriously and they are fighting it with a good deal of efficacy.

In conclusion, let me make one final point in answer to the honourable member’s question. The Australian government condemns in the strongest of terms the vicious and cowardly attacks on hotels in Amman, Jordan, which we believe have killed at least 67 people. More could have been killed; those numbers could grow. Over 300 people have been wounded. From Australia’s point of view, mercifully no Australian has been reported injured or killed at this stage. We are still looking and checking as best we can in Amman. We know of one Australian who was staying in one of those hotels but we also know that he is perfectly well, healthy and fit. This was a cowardly and vile act of terrorism, and our hearts go out to the families of the victims and to the government of Jordan at this difficult time.

Mr BEAZLEY (Brand—Leader of the Opposition) (2.10 pm)—With your indulgence, Mr Speaker, I associate myself with the remarks made by the Minister for Foreign Affairs with regard to the sympathies extended to the government and the people of Jordan for that horrific outrage over the last couple of days.

Workplace Relations

Mr BEAZLEY (2.10 pm)—My question is to the Prime Minister. If the government will not release any research into the impact of its extreme industrial relations changes, why should the Australian people believe the Prime Minister’s claims about the economic benefits of these changes given that the following experts have cast doubt on his claims: Professor Mark Wooden, Professor Richard Freeman, Fred Argy, Professor John Quiggin, Professor Stephen Deery, Professor David Peetz, David Barton and Saul Eslake? And that is before you even get to the Melbourne Institute of Applied Economic and Social Research, the World Bank and the ILO.

Mr HOWARD—The World Bank! Before I reply to the question asked by the Leader of the Opposition, could I also have indulgence to add to something in the answer given by the Minister for Foreign Affairs in relation to Abu Bakar Bashir. I would like to place on record my appreciation and, I think, the appreciation of all members of the House for the very patient and effective diplomacy that the minister has brought to that particular issue.

My response to the Leader of the Opposition is to say that one of the reasons the Australian people should believe us is that over the last 9½ years the claims that we have made about the efficacy and effectiveness of our policies have been dramatically proved. They have been very successful.

Employment

Mr LAMING (2.13 pm)—My question is addressed to the Treasurer. Would the Treasurer outline to the House the results of the October labour force survey? What do the
figures indicate about the state of the Australian economy?

Mr COSTELLO—I thank the honourable member for Bowman for his question. The labour force survey for the month of October showed that the unemployment rate increased slightly from 5.1 per cent to 5.2 per cent. This is a consequence of employment falling by 19,800 persons in the month of October. This comes off the back of exceptionally strong jobs growth over the last 12 months. Over the last 12 months nearly 230,000 new jobs have been created, with 45 per cent of them full time. In fact, up to August 2005 employment had risen by a record of around 402,000 persons.

What we see in today’s figures, I believe, is evidence of a moderating economy—employment is generally a lagging indicator. As we saw economic growth moderating through the earlier part of 2000, as I said, with a downturn in the construction sector of the economy, now we see employment outcomes moderating, although, as I informed the House earlier this week, the ANZ job advertisements point to some slowing in the months ahead but a pick-up sometime afterwards. Nevertheless, an unemployment rate of 5.2 per cent is still an unemployment rate of around a 30-year low. We have not been in a position to sustain unemployment below six per cent since monthly statistics started back in 1978.

I would take from these results the fact that probably we have reached the cyclical low in terms of unemployment; after sustained growth, unemployment is at the cyclical low. We need structural reform in the Australian economy if we want to be able to take unemployment lower. Nothing could be more important than industrial relations reform. Of course, the Chicken Littles of the Australian Labor Party will tell you that the sky will fall in if we reform the labour market, just as they told us that the sky would fall in if we introduced the GST and just as they told us that the sky would fall in if we balanced the budget. The Chicken Littles of the opposition—

Mr Swan—Mr Speaker, I rise on a point of order. Will you get the turkey back to the real topic, which was the employment figures?

The SPEAKER—There is no point of order.

Mr COSTELLO—or, in the case of the members for Perth and Lilley, the Roosters Little of the opposition—will tell you that, if you reform the Australian economy, the sky will fall in. But it was the reform of the Australian economy—with the monetary targets targeting inflation, the budget being balanced, $90 billion of Labor Party debt being paid off, the GST being introduced, capital gains tax being halved, income tax being reduced and indirect taxes being abolished—that got Australia to where it is now. It is the reform of today that will take this economy where we want it to be tomorrow. There should be no let-up in economic reform. It is the reform of today that will build the opportunity of tomorrow.

Workplace Relations

Mr STEPHEN SMITH (2.17 pm)—Chicken Little II is out, Pete; you’ll see that soon.

The SPEAKER—The member for Perth will come to his question.

Opposition members interjecting—

The SPEAKER—Does the member for Perth need more encouragement to ask a question?

Mr STEPHEN SMITH—I need no more encouragement than the mirth at the expense of the Treasurer to ask my question of the Prime Minister. My question is to the Prime Minister. Prime Minister, I refer to the gov-
ernment ramming its 1,252-page, 456,151-word extreme industrial relations changes through the House today after only one hour of detailed consideration. Prime Minister, isn’t this just Peter Reith, dogs and bala-clavas in legislative form through every workplace in the country, just as you have always wanted for more than the last 20 years?

Mr HOWARD—I thank the member for Perth for that question. Let me say that I believe Peter Reith’s reform of the waterfront is something that should be praised and not condemned. I will never apologise for what this government did in relation to reform of the waterfront. If the member for Perth imagines that raising reform of the waterfront is some kind of killer blow, he is wrong. Those reforms of the waterfront resulted in a massive lift. For example, container movement went from 17 to 28 movements as a result of those reforms. For decades, the exporters of Australia had been begging a government to summon the courage to fix the waterfront—and Peter Reith had the courage to do so.

Workplace Relations

Mr HAASE (2.20 pm)—My question is addressed to the Minister for Employment and Workplace Relations. Would the minister update the House on the progress of reform of Australia’s workplace relations system? Are there any alternative views?

Opposition members interjecting—

The SPEAKER—Order! The minister has the right to be heard.

Mr ANDREWS—I thank the member for Kalgoorlie for his question, because the bill that passed the House of Representatives today represents nine years of listening by this government to the employers and the employees of Australia about what is needed to update our century-old industrial relations system. The Work Choices bill stands in marked contrast to the blanket opposition for opposition’s sake that we have seen from the Leader of the Opposition and those behind him. Even before he had seen the bill, the Leader of the Opposition was promising to rip it up—even before he had seen it. This is just opposition for opposition’s sake. What this confirms is that, basically, the Leader of the Opposition stands for nothing; he stands for nothing when it comes to these issues. All that the Leader of the Opposition is concerned about is opposing things for opposition’s sake. There is a track record of this.

Mr Beazley—Mr Speaker, I rise on a point of order. Is it relevant for him to be mentioning the opposition’s stance without pointing out that it is motivated by a determination—

The SPEAKER—The minister was asked a question that included alternative views. The minister is in order.

Mr ANDREWS—The Leader of the Opposition has a track record when it comes to opposition for opposition’s sake. This is the man who opposed the Workplace Relations Act in 1996. This is the man who opposed, on some 41 separate occasions, attempts to reform the unfair dismissal laws. This is the man who opposed the new taxation system. This is the man who opposed the balancing of the budget. This is the man who opposed the privatisation of Telstra. Of course, he admits to this. Back in 2000, in an interview on 5AN Radio in Adelaide, he was quizzed about his negativity. This is what the Leader of the Opposition said:

So you actually have a role to be carping …but carping, yeah, there is a role for this unfortu-nately.

That is all we hear from the Leader of the Opposition. I looked up the dictionary to see if there were some synonyms for ‘carping’, and there are—complaining, moaning, nit-picking, fault finding and rousing. That is all we hear from the Leader of the Opposition—...
complaining, nitpicking, fault finding and carping all the time.

Opposition members interjecting—

The SPEAKER—Order! I remind members that the voters of Australia deserve better.

Opposition members interjecting—

The SPEAKER—I will restate that: the voters of Australia deserve better from their elected representatives—and that includes their behaviour in this House.

Mr ANDREWS—The member for Brand, in nine years, eight months and eight days, has done nothing but carp, carp, carp.

Workplace Relations

Mrs IRWIN (2.25 pm)—My question is to the Prime Minister. Prime Minister, I refer to a story on A Current Affair last night which revealed the sacking of three young women on contract to the government’s Work Choices hotline. Is the Prime Minister aware that these three young women—Catherine, Mimi and Julie—received no training and were sacked after less than a month on the job? My question to the Prime Minister is in the words of Catherine’s dad, Wayne Allen: ‘If the department that is responsible for the introduction and implementation of workplace reforms cannot look after staff specifically recruited to advise the rest of the country on workplace issues, what chance does the average Australian have when they come into play’?

Mr Howard—The answer to the question is that I did not see the program. I was travelling between Canberra and Brisbane at the time the program was on to attend a long-standing commitment to a very reputable and very esteemed Queensland charity and also to make the acquaintance of a few hundred friends outside the gathering.

Seriously, I will investigate the matter now that the member for Fowler has raised it. If there is anything I can provide to her by way of insights into what occurred, I will do so. Can I make the observation that you would imagine from the way the question has been phrased that, under the workplace relations system that the opposition espouses, there are never any disputes, there are never any differences, there is never any severance of employment and there are never any arguments between employers and employees. That is not the reality that the Australian community recalls and it certainly is a reminder of the vacuity of the attacks that are being made on this policy by the Labor Party.

Workplace Relations

Mr RICHARDSON (2.28 pm)—My question is addressed to the Deputy Prime Minister and Minister for Trade. Would the Deputy Prime Minister update the House on how Australia’s manufacturing exporters will benefit from the government’s workplace relations changes? Are there any alternative views?

Mr VAILE—I thank the member for Kingston for his question. Many of the workers in the manufacturing industries in Adelaide in the electorate of Kingston take a great deal of interest in what we are doing as a government to improve the circumstances, productivity and competitiveness—and, therefore, the job security—of the workers in manufacturing industries. I said yesterday that Australia’s exports last year reached a high of $162 billion. As a contribution to that, our manufactured exports grew by 6.5 per cent to reach $35 billion—a very good effort by Australia’s manufacturing industries. The strongest contributors to that growth of 6.5 per cent were the metals and machineries exports out of Australia. If we are to continue this manufacturing exports success story, we have to build on the pro-
ductivity gains that have already been put into place over the last decade.

Ms Hoare interjecting—

The SPEAKER—Order! The member for Charlton!

Mr VAILE—What the government is proposing with its workplace relations reforms are very fair and reasonable workplace relations reforms that are supported by many industry groups and many individual businesses, large and small, in the manufacturing sector. The Australian Industry Group said:
The Australian Industry Group believes that the changes are necessary to align the workplace relations system with the circumstances of modern industry and that they will boost productivity as a key part of the wider economic reform agenda.

That is from the Australian Industry Group, representing a wide range of manufacturing exporting industries. International food and coffee manufacturing company and exporter Cerebos introduced AWAs into their workplace in 2004. Their human resources manager said:

It was a collaborative rather than an adversarial process and helped employees and managers to view their work in less rigid institutionalised ways. The flexible nature of the agreements has created a family friendly work environment which is of ongoing benefit to both Cerebos and the employees.

Thirdly, beverage manufacturer Juicy Isle introduced AWAs in 2000, as they were concerned about the number of different awards and unions that covered the workplace. They were also searching for an arrangement that allowed for extended shifts in their processing section.

Ms Hoare—Yeah, that’d be right!

The SPEAKER—Order! The member for Charlton is warned!

Mr VAILE—Their AWAs provide for extended shifts where processing employees work an 11.5 hour day, four days a week. The weekly rostered days off are highly prized by employees, who have indicated that they strongly prefer to work hard for four days a week and have a day off in lieu. That business says:

The main benefits of the AWAs are improved staff morale; reduced turnover, especially in the processing section; and more flexibility when negotiating with clients.

Those examples point to the ability of the workplace under a flexible system to give better circumstances and conditions to the work force that suit their lifestyles and that are also beneficial to the productivity and the competitiveness of the manufacturing industry. That is what this government is seeking to achieve with these fair and reasonable workplace reforms.

Workplace Relations

Ms PLIBERSEK (2.32 pm)—My question is to the Prime Minister. Will the Prime Minister admit that the government’s extreme new industrial relations laws are designed to allow employers to make their employees work irregular and family-unfriendly hours including early mornings, nights, weekends and public holidays? Will the Prime Minister admit that only eight childcare centres are open on both days of the weekend and only two are open 24-hours a day? What does the Prime Minister expect Australian parents to do about child care when their bosses force them to work all hours and at short notice?

Mr HOWARD—The answer to the question is no. That sort of question and that sort of allegation is of a piece with the sort of dishonest campaign that the Australian Labor Party has waged. It is not quite as bad as some of the other allegations that are being made—the allegation made in the Victorian parliament that women and children would be murdered on picket lines, the allegations made—
Mr Beazley—Mr Speaker, I rise on a point of order going to relevance. He was asked an explicit question about the availability of child care; he was not asked a question about affairs in the Victorian parliament. He ducks and runs on every debating point and he will never give a straight answer.

The SPEAKER—The Leader of the Opposition will resume his seat. I call the Prime Minister.

Mr HOWARD—I was asked whether the impact of these changes would be as alleged by the member for Sydney and I said no. Then I went on to liken the allegation she made with all the other absurd allegations that have been made. I return to what was said in the Victorian parliament. I know the Leader of the Opposition is embarrassed about the claim made by Mr Bob Smith MLC in the Victorian parliament that people on picket lines will be murdered. He said: Women and children were killed, and that is the road this Prime Minister wants to take us down. It is a disgrace.

I think the person who uttered those words is a disgrace. But of course—

Honourable members interjecting—

Mr HOWARD—Bob Smith? Yes, he is a prominent member of the Labor Party in Victoria.

Mr Beazley—Mr Speaker, I rise on a point of order going to relevance. That is just babble. What is he going to do about the availability of child care at weekends when working women are forced to work?

The SPEAKER—Order! The Leader of the Opposition will resume his seat. I call the Prime Minister.

Mr HOWARD—I will simply make two points before concluding: the premise on which the member for Sydney’s question was based is completely wrong; therefore her scare tactics in relation to child-care places are also wrong.

Workplace Relations

Mrs HULL (2.35 pm)—My question is addressed to the Minister for Employment and Workplace Relations. Would the minister inform the House how sick leave will be protected for all workers under the new workplace relations system? Are there any alternative views?

Mr ANDREWS—I thank the member for Riverina for her question. I can indicate to her that the Work Choices bill will give all employees a guaranteed minimum of 10 days per year for personal and carers leave, which includes sick leave. This is important because this is the first time in federal legislation that employees have been guaranteed this minimum standard. The ALP and the ACTU have been running another inaccurate scare campaign arguing that, under the bill, employees must provide a separate medical certificate for every day that they take off on sick leave. That is absolutely wrong. The bill does not compel employers to demand a medical certificate in every instance; it merely allows them to do so if they require it.

This morning the member for Perth claimed that the new provision ‘seeks to change the current community approach and the current community standard’. He is absolutely wrong. There is nothing new about this provision. Let me take the House to why that is the case. Firstly, schedule 1A of the Workplace Relations Act, which in turn reflects the model carers leave clause—which was agreed between employer groups and the ACTU as part of the family provisions case—provides in respect of sick leave:

(1) An employee’s entitlement to sick leave is conditional on the employee promptly notifying the employer of:

(a) any illness or injury ...
(2) If required by the employer, an employee who takes sick leave must establish by producing a medical certificate or making a statutory declaration that he or she was unable to work because of injury or personal illness.

That is the provision in the current legislation. When it was put to Mr Combet, the Secretary of the ACTU, this morning on Radio National that the government points out that it is already the case in some areas and in some awards, he replied by saying, ‘Well, it’s not.’ Can I take the House to a couple of award provisions in relation to this. Firstly, I go to the metals award. Clause 7.2.4(d) of the metals award, a current industrial instrument, says:

The employee must, if required by the employer, establish by production of a medical certificate or statutory declaration, that the employee was unable to work because of injury or personal illness.

There it is in black and white in the metals award. Let us go to another award, the transport workers award. Clause 39.3.2(c) reads:

An employee shall prove by providing a medical certificate or other evidence to the satisfaction of the employer that the employee was unable on account of such illness or injury to attend for duty on the day or days for which sick leave is claimed.

So the person who is absolutely wrong and misleading about this, once again, is Mr Combet, the Secretary of the ACTU.

In addition to that, there is actually a new provision in the Work Choices legislation which adds a further protection for employees. It provides that the section in relation to the production of a medical certificate does not apply to an employee who cannot comply with it because of circumstances beyond the employee’s control. That is actually a new protection in the bill for employees, which does not exist at the present time in the Workplace Relations Act and does not exist in these awards.

Ms King interjecting—

The SPEAKER—The member for Ballarat is warned!

Mr ANDREWS—the ACTU and the ALP have been caught out lying about these provisions. Why should there be such a provision in this legislation? There is a reason provided in the actions of workers on the construction of the Mandurah rail line, in the member for Perth’s home state. We had 400 CFMEU members walk off the job on one day, all claiming that they had been subject to the flu that day. They all claimed that it was the flu that had brought them all off the job on the one day. Kevin Reynolds, the Secretary of the CFMEU, called this a ‘legitimate industrial tactic’. Note what the Labor Premier of Western Australia, Dr Geoff Gallop, had to say about this. He said:

... as a government we simply will not support blue flu as a tactic. We believe it is wrong and undermines the very point of having sick leave in our industrial relations system.

Are the Leader of the Opposition and the Labor Party going to stand up for what Geoff Gallop knows is right, or is the Leader of the Opposition going to continue—

Opposition members interjecting—

The SPEAKER—Order! The Minister for Employment and Workplace Relations will conclude the answer to his question.

Mr ANDREWS—in conclusion, I simply ask this question: is the Leader of the Opposition going to support what Premier Gallop in Western Australia knows is right, or is he going to continue to simply parrot the lines of the ACTU?

Agriculture: Fruit and Vegetable Growers

Mr ANDREN (2.42 pm)—My question is to the Minister for Agriculture, Fisheries and Forestry. Minister, given that the Brisbane Markets commissioned a survey of fruit and
vegetable growers across the country which found a significant majority of growers believed the retail supermarket chains should be covered by the mandatory horticulture code of conduct, a proposition also supported by the Central Markets Association of Australia, will the government ensure the effectiveness of the mandatory horticulture code by including the retail supermarket chains under its terms? If not, why not?

Mr McGauran—I thank the honourable member for his question. The government, pursuant to its election commitment to develop a mandatory horticultural code of conduct, is in the process of doing exactly that. The code is being developed according to a clear process which conforms with the government’s guidelines for prescribing mandatory industry codes under the Trade Practices Act 1974. I am consulting with all interested parties on an almost daily basis, taking account of many points of view. Before very much longer, the government will be announcing the mandatory horticultural code of conduct.

National Security

Mr Neville (2.44 pm)—My question is addressed to the Minister for Transport and Regional Services. Would the minister advise the House of what measures the government has taken to further secure Australia’s maritime transport system, in particular in ports like Gladstone and Bundaberg in my electorate? Would he also inform the House of whether there are alternative policies?

Mr Truss—I thank the honourable member for Hinkler for his question. He will be aware that all of our major ports are currently undertaking security assessments and are required to have security plans in place. The Gladstone port, which is one of our most important bulk-shipping ports, is a part of that process. The Office of Transport Security assesses these plans to make sure that there is an appropriate regime in place to protect Australian interests and to make sure that the operations of our ports are appropriately safe. Vessels coming to Australia are also subject to a security examination to ensure that those coming here and their crews are suitable to enter our ports.

The Commonwealth has accepted responsibility for counterterrorism and prevention, particularly covering also now our offshore areas. Later this month we will begin the roll-out of the maritime security identification cards. Around 130,000 of these cards will be issued over the next 15 months, and we expect the scheme to be fully in place by the end of next year. That obviously also involves the port of Gladstone.

We are recognised internationally for our leadership in maritime security and we are working with the international community to develop a scheme for satellite tracking of all security-regulated ships. In this environment it surprises me to have heard comments from the honourable member for Batman and the Leader of the Opposition about ‘gaping holes in Australia’s maritime security’. Unfortunately for them, the real agenda of the Labor Party in discussing maritime security was revealed by the shadow minister, Kerry O’Brien, when he spoke to the Maritime Union of Australia a couple of days ago. He really let the cat out of the bag as to why Labor are talking about security in our maritime industries. He saw it as an opportunity to wind back reforms in the maritime industry. He said to them that this was a real opportunity for the Australian shipping industry. They are trying to scare people into believing that somehow or other we should have more union representatives in each ship and more involvement with the Maritime Union. He praised them for their role in writing the Labor Party’s maritime policy. He sees this as a way of introducing and winding back the reforms on the ports, the re-
forms in shipping, and the number of crew on ships.

Mr Beazley—Mr Speaker, I raise a point of order: the minister was not asked a question about the shadow minister’s and our determination that Australian ships carry dangerous Australian cargoes using Australian workers, because we can trust them—

The SPEAKER—The minister is in order. The question included alternative policies.

Mr TRUSS—The Labor Party is very sensitive about this issue and their determination to wind back reforms of the shipping industry, which would make the transport and trade of Australia less efficient and therefore less competitive. The reality—alluded to again earlier today—is that the significant reforms of our waterfront have made a big difference for Australia. Our capacity to effectively export our commodities in the most efficient way is under threat by Labor Party deals with the Maritime Union to wind back industry reform. Everybody ought to see it for what it really is.

Workplace Relations

Ms PLIBERSEK (2.48 pm)—My question is to the Prime Minister. Is the Prime Minister aware of comments made by 64 community groups, including Australian Church Women, Catholic Women’s League Australia, Guides Australia, the Salvation Army, Business and Professional Women’s Australia and many others who have all said that women will have ‘less income security and less work stability’ under your extreme industrial relations changes because of their ‘greater reliance on award rates of pay, penalty rates and other award based conditions’?

Mr HOWARD—I am aware of a lot of commentary on this legislation. Let me say that the basic premise of this legislation is to provide greater flexibility in the workplace thereby leading to higher productivity, a stronger economy, higher real wages and more jobs. That is the essence. It is not about creating family unfriendly workplaces, it is not about separating families, it is not about setting brother against brother, it is not about preventing parents from spending Christmas Day with their children and it is not about people being murdered on picket lines; it is in fact about securing the economic future of the Australian nation.

Health

Mr TURNBULL (2.50 pm)—My question is addressed to the Minister for Health and Ageing. Would the minister update the House on how the government is strengthening our health care system to provide affordable, high-quality care? Is the minister aware of any alternative policies?

Mr ABBOTT—I thank the member for Wentworth for his question and I appreciate his interest in the health policies of the Howard government. I can assure the member that the Howard government does not just talk about Medicare; we make the investments needed to make a good system even better.

The SPEAKER—The Leader of the Opposition can put that piece of paper down!

Mr ABBOTT—I can assure the member for Wentworth that since 1996 federal health spending has increased from 15 per cent to over 20 per cent of the federal budget and federal health spending has increased from 3.7 per cent to 4.3 per cent of Australia’s gross domestic product. This year the Howard government will spend $44 billion on health portfolio programs.

The SPEAKER—The Leader of the Opposition will keep that lower!

Mr ABBOTT—that is 44 billion reasons why the Howard government is the best friend that Medicare has ever had. But we do
not just spend public money on better health programs; we have attracted—

Mr Beazley—Mr Speaker, I rise on a point of order. How could it be relevant for the minister to be boasting on expenditures when an article on his own policy—

The SPEAKER—The Leader of the Opposition will resume his seat!

Mr Abbott—The point I am making is that the Howard government has not just spent public money on health programs; the Howard government has attracted more private money into the health system through signature policies like the private health insurance rebate.

Opposition members interjecting—

The SPEAKER—Order! The Speaker is on his feet!

Mr Fitzgibbon interjecting—

The SPEAKER—The member for Hunter is warned!

Mr Fitzgibbon interjecting—

The SPEAKER—The member for Hunter will remove himself under standing order 94(a).

The member for Hunter then left the chamber.

Mr Gavan O’Connor—Give us a kiss!

Mr Abbott—I extend my benevolence to all members opposite, because I have to say that, on a day like today, they sure need it.

Mr Beazley interjecting—

The SPEAKER—Order! The Leader of the Opposition has made his point, and if that piece of paper is held up again I will take action.

Oil for Food Program

Mr Gavan O’Connor (2.55 pm)—Better pucker up, Mr Speaker! My question is to the Minister for Agriculture, Fisheries and Forestry. I refer to his statement yesterday that the inland transport costs were not mentioned in AWB contracts with Iraq from 2000 onwards. Is the minister aware that on page 312 of the Volcker report it states that from July 1999 ‘the inland transportation provision became standard in all AWB contracts for the remainder of the program’? Is the minister aware that Mr Flugge, the Chair of AWB until 2002, told the Volcker inquiry on 2 March this year that the Iraqi contracts had inland transport components? Minister, who is telling the truth—Mr Volcker, Mr Flugge or you?

Mr McGauran—I am happy to speak for myself, in which case the answer is yes.

Mr Tanner interjecting—

The SPEAKER—The member for Melbourne is warned!

Mr McGauran—With regard to any other questions or matters of public controversy or debate—or, in the case of opposition members’ defamatory comments—these matters can now be examined by the commission of inquiry that has been established today. With regard to the issue of transport, I would stress that the Chairman of the Wheat Export Authority, Mr Besley, advised the Senate estimates committee that there was no indication of inland transportation costs in the Australian Wheat Board documents which it examined. Under its monitoring and reporting framework, the WEA examines the sea freight associated with wheat exports and the domestic Australian freight costs associated with moving wheat from farm to port.

United States of America

Mrs Bronwyn Bishop (2.57 pm)—My question is addressed to the Minister for Foreign Affairs. Would the minister update the House on developments in our alliance with the United States? Is the minister aware of any alternative positions on the alliance?
Mr DOWNER—Firstly, I thank the honourable member for Mackellar for her interest and her question. She will be both interested and pleased to know that next week the defence minister, Senator Hill, and I will be hosting the 20th annual Australia-US Ministerial Consultations on the US alliance with the US Secretary of Defence, Donald Rumsfeld, and the Deputy Secretary of State, Bob Zoellick. This meeting will be held in our home town of Adelaide. I think it will be a great event for Adelaide to have a meeting of such enormous international importance held in that great city. We very much look forward to the senior US delegation visiting Australia.

The cooperation between Australia and the United States is simply enormous, and honourable members will, in particular, in these days when we are focused on the issue of terrorism, be interested to know that cooperation in the field of counter-terrorism is central to our efforts in this part of the world—not just beyond this part of the world but in this part of the world—to deal with the problem of terrorism. The American efforts in South-East Asia in the field of counter-terrorism are vitally important to the success of any struggle against terrorism.

There is no doubt that, under this government, the alliance with the United States has never been stronger and, if I may say so, we have always been unapologetic about that. The government have always made the point—contrary to our political opponents—that we are able to have the strongest relationship Australia has ever had with the United States—

Mr Danby interjecting—

The SPEAKER—Order! The member for Melbourne Ports is warned!

Mr DOWNER—while at the same time we build relations with our East Asian neighbours to a closer and more integrated degree than has ever been the case before. I think that is a great tribute to the Prime Minister and to the government for its efforts. The honourable member for Mackellar, by the way, asked me whether there are any alternatives. I think we all know that during the last election the Labor Party was led by Mark Latham—

Opposition members interjecting—

Mr DOWNER—Those opposite did not think he was so boring when they were telling the Australian people to vote for him, though. All those opposite were elected on Mark Latham’s coat-tails—let us not forget that! Their hero, their leader, the ‘man of magic’, as they were trying to tell us last year, was a man who had made it perfectly clear in his diaries—dare we mention them again—that the Labor Party—

Mr Beazley—Mr Speaker, I rise on a point of order that goes to relevance. The minister will be attending a series of meetings that was set up by me and Bill Hayden. Now he is trying to claim that the opposition opposes it.

Mr DOWNER—It was set up in 1986—

Mr Wilkie interjecting—

The SPEAKER—Order! The member for Swan is warned!

Mr DOWNER—AUSMIN is the successor arrangement to the Australian-New Zealand-US ministerial talks. New Zealand of course resigned from the US alliance just, by the way, as Mark Latham wanted to. Mark Latham said that the alliance was ‘the last manifestation of the white Australia policy’—and he was the Leader of the Labor Party. The Leader of the Opposition says, ‘Who cares what he thinks?’ But last year he was telling us that Mark Latham should be the Prime Minister of Australia. The Leader of the Opposition rejoined the shadow cabinet as his shadow minister for defence, so
great was his faith in Mark Latham. Last year the Leader of the Opposition told us he wanted Mark Latham to be Prime Minister; this year he says, ‘Who cares what he thinks?’

Mr Kerr interjecting—

The SPEAKER—Order! The member for Denison is warned!

Mr DOWNER—It reminds me of a cartoon in the Australian that some of you may have seen. It was on the day of the Melbourne Cup. The cartoon featured the Leader of the Opposition going to a bookie, who was the Prime Minister, and the Leader of the Opposition was saying to the bookie, ‘Five bob each way on everything.’ That sums up the Leader of the Opposition. If ever there was any doubt, by the way, that the Labor Party was at the very best ambivalent about the alliance, you have only to look at the ANU Australian candidate survey, where the truth was told. Only 40 per cent—less than half—of Labor candidates at the last election said that the alliance was important for Australia’s security.

Mr Beazley—Mr Speaker, I rise on a point of order that goes to relevance. This has nothing to do with the question, and we will not take lectures from a bloke whose negligence allowed $300 million to go into Saddam Hussein’s—

Mr Downer interjecting—

Mr Beazley interjecting—

The SPEAKER—Order! The Leader of the Opposition and the minister continue to defy the chair. Both of them are warned!

Mr DOWNER—We put on a good show, though, Mr Speaker.

Honourable members interjecting—

Mr DOWNER—I am perfectly in order.

Oil for Food Program

Mr RUDD (3.04 pm)—That is enough from Saddam’s bagman—

Honourable members interjecting—

The SPEAKER—Order! The member for Griffith will withdraw that.

Mr RUDD—I withdraw, Mr Speaker. My question is to the Prime Minister. I refer to the announcement of an inquiry into the $300 million Australian contribution to Saddam Hussein through the Australian Wheat Board. Prime Minister, isn’t it a fact that this commission of inquiry only has terms of reference to investigate three Australian companies and narrowly defined persons associated with those companies rather than powers to investigate the actions of Australian government ministers, advisers and their officials? Why is this inquiry not empowered to reach findings as to whether or not the Australian government itself has failed to meet its legal obligations to prevent breaches of global sanctions against Saddam Hussein? Prime Minister, if you are not empowering this inquiry to examine the government’s own actions in approving this $300 million Saddam Hussein slush fund, aren’t you simply establishing, in advance, a 100 per cent rolled gold political whitewash?

Mr HOWARD—The answer to the question is no—absolutely no. But let me amplify why I say no. I amplify in two respects. This inquiry responds precisely to the request that was made by the Secretary-General of the United Nations. As the member for Griffith knows, I do not have the same unqualified faith in the United Nations that the member for Griffith has, because I have seen too many gaps in the capacity of the United Nations to respond to disastrous situations—I think of Rwanda, I think of Kosovo and I think of the speedy responses that have been given. A statement attributable to the
spokesman for the Secretary-General of the United Nations says:
He notes that a vast network of kickbacks and surcharges has been exposed, involving companies registered in a wide range of member states, and certified by them as competent to conduct business under the Programme.

The statement then reports this:
He hopes that national authorities—that, I assume, means the government of the Commonwealth of Australia—will take steps to prevent the recurrence of such practices in the future, and that they will take action—

Mr Kerr interjecting—

The SPEAKER—The member for Denison will remove himself under standing order 94(a).

The member for Denison then left the chamber.

Mr HOWARD—The statement then reports the following statement by the Secretary-General:
He hopes that national authorities will take steps to prevent the recurrence of such practices in the future, and that they will take action, where appropriate, against companies falling within their jurisdiction.
That is exactly what the government is doing. We are, to the letter, responding to the request made by the Secretary-General of the United Nations. I point out to the member for Griffith, who endeavours to smear the behaviour of ministers in this government, that, despite all the investigations made by Volcker and despite the fact that Volcker could make an adverse finding which related to the Indian foreign minister, which puts paid to the notion that in some way Volcker could not make comment about political parties or foreign ministers, there was not a zephyr of criticism offered of the government. That is the reason why the terms of reference are entirely appropriate.

Aged Care

Mr FAWCETT (3.09 pm)—My question is addressed to the Minister for Ageing. Would the minister inform the House how the government is assisting older Australians to return home from a hospital stay rather than prematurely entering residential care.

Ms JULIE BISHOP—I thank the member for Wakefield for his question and for his great interest in aged care issues. Certain myths still abound in aged care, peddled mostly by the Labor Party. One is that most older people will go into residential aged care. In fact, because of the choices and services that are available, only 10 per cent of people over the age of 70 enter residential aged care at any time.

While the government has increased the number of residential aged care places, we have also introduced a range of choices and options in services so that older people can remain at home. For example, we have increased low-level care through the community aged care packages and the high-level care in our EACH program, introduced dementia specific packages and dramatically increased the amount of respite that is available. This level of choice was not available under the Labor Party when it was in government.

We now have another program of care, the Transition Care Program. This is to assist older people, after a hospital stay, to return home rather than go into residential aged care. The first 600 of these places have now been allocated. The member for Wakefield will be pleased to know that 90 of these places are now operational in South Australia and 10 more are operational in the ACT. By 2006-07, we expect there to be 2,000 of these transition care places. That will mean that each year 13,000 older Australians will be assisted with between eight and 12 weeks of post-hospital care so that there is an op-
portunity for them to return home and not enter residential aged care—or not prematurely enter residential aged care.

Let me compare and contrast this government’s support for aged care with that of the Labor Party. They neglected aged care when they were in government. They abandoned it in opposition. I ask whether the Leader of the Opposition realises that it is well over 3,500 days since Labor had an aged care policy.

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

PERSONAL EXPLANATIONS

Dr Emerson (Rankin) (3.12 pm)—Mr Speaker, I wish to make a personal explanation.

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

Dr Emerson—I do.

The Speaker—Please proceed.

Dr Emerson—Yesterday in answer to a question, the Minister for Trade sought to claim that Labor had dismissed allegations that the Wheat Board paid kickbacks to Saddam Hussein. In doing so, the minister cited a press release issued by Senator O’Brien and me. The minister failed to reveal that our press release said:

Iraq ‘kickback’ claims must be investigated.
The Howard Government must investigate claims by the United States wheat lobby that Australia’s wheat sales to Iraq helped prop up Saddam Hussein’s regime.

... ... ...

Kickbacks to the family of the former dictator would have diverted money from Australian wheat growers’ pockets to enrich the Iraqi regime.

The Speaker—Order! The member has made his point.

Dr Emerson—I seek leave to table the statement that was issued by Senator Kerry O’Brien and me in June 2003. If the advice had been taken, this scandal would have gone no further.

Leave granted.

QUESTIONS TO THE SPEAKER

Australian Flag

Ms Burke (3.13 pm)—Mr Speaker, I draw your attention to a flier from the state member for Box Hill, Robert Clark. His latest newsletter says that he is able to arrange an Australian flag for distribution to schools and community groups within the electorate of Box Hill. Mr Speaker should—and hopefully will—be aware that state parliamentarians are only entitled to distribute their state flag and do not receive entitlements to distribute the Australian flag. Mr Speaker would also be aware that federal senators and members have uncapped entitlements to distribute the Australian flag to community groups and a capped entitlement of 50 flags per annum for presentation to private individuals. Getting to my question, Mr Speaker, would you examine whether any government MP or senator is abusing his or her entitlement by giving Australian flags to state members of parliament for their own political promotion rather than giving them to those who they are meant for. If this is occurring it is yet another blatant abuse of the Australian flag.

The Speaker—Order! The member will not debate the question. I thank the member for Chisholm for her question. I will look at it and report back as appropriate.

National Security

Mr Kelvin Thomson (3.14 pm)—I have a question for you, Mr Speaker. Yesterday, and again today, the member for O’Connor urged the opposition to ask questions in parliament about Tuesday’s arrests in Sydney and Melbourne of a number of men on terrorism related offences. I draw your
attention to page 505 of *House of Representatives Practice*, which states:

The [sub judice] convention is that ... matters awaiting adjudication in a court of law should not be brought forward in debate, motions or questions.

My question is this: will you draw this convention to the attention of the member for O’Connor? His lack of respect for the legal process has been the subject of debate in this House before. He should not be inciting this parliament to breach the sub judice convention.

**The SPEAKER**—Order! The member will not debate the issue. As the member would be aware, under the sub judice rule the parliament does have the right to discuss these matters. It is the Speaker’s discretion as to whether or not it contravenes sub judice issues. I am sure that, as the member for O’Connor is present, he will take note of the concerns that you raise.

**PERSONAL EXPLANATIONS**

Mr HENRY (Hasluck) (3.15 pm)—Mr Speaker, I wish to make a personal explanation.

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

Mr HENRY—Yes.

**The SPEAKER**—Please proceed.

Mr HENRY—I claim to have been misrepresented in the Senate last night. These misrepresentations relate to the proposal to build brickworks on airport land in the Hasluck electorate. These misrepresentations apply to my objections to the brickworks being merely lip service, that the hard work of Mr John Collins is a charade and that I provided tacit support to some non-existent agreement between the member for O’Connor and BGC. I totally reject these misrepresentations as lies.

**The SPEAKER**—Order! The member for Hasluck will leave off the last point. He has made his point; he does not have to overemphasise it.

**DOCUMENTS**

Mr ABBOTT (Warringah—Leader of the House) (3.16 pm)—Documents are tabled as listed in the schedule circulated to honourable members. Details of the documents will be recorded in the *Votes and Proceedings*.

I present documents on the following subjects, being petitions which are not in accordance with the standing and sessional orders of the House:

- Millennium Development Goals and the ‘Make Poverty History’ campaign—from the member for Eden-Monaro—1081 Petitioners
- Government’s Workplace Relations Reform—from the member for Chisholm—317 Petitioners
- Return of an Australian Flag from the Australian War Memorial to the People of Darwin—from the member for Solomon—4637 Petitioners

**MATTERS OF PUBLIC IMPORTANCE**

**Industrial Relations**

**The SPEAKER**—I have received letters from the Leader of the Opposition and the honourable member for Kennedy proposing that definite matters of public importance be submitted to the House for discussion today. As required by standing order 46(d) I have selected the matter which, in my opinion, is the most urgent and important; that is, that proposed by the Leader of the Opposition, namely:

The Government’s total disregard for the interests and wellbeing of working Australians and their families by denying the opportunity for a proper debate of its extreme industrial relations changes.

I call upon those members who approve of the proposed discussion to rise in their places.
More than the number of members required by the standing orders having risen in their places—

Mr BEAZLEY (Brand—Leader of the Opposition) (3.18 pm)—Mr Speaker, thank you for that gesture of confidence. I also thank the member for Kennedy, whose subject is indeed very important and no doubt will be discussed here sooner or later. Before I get on to the main substance of what I have to say on this MPI, I want to shine a light on the government’s strategy in the face of the difficulty they have convincing the Australian people that they have done the right thing by them in the industrial relations legislation which has just passed this House.

There are two elements to their argument, which no doubt has been about as good as they could manage with focus groups to this point. One is to claim falsely that the opposition believes that, the moment the Workplace Relations Amendment (Work Choices) Bill 2005 is passed, the sky will fall in; hence all the Chicken Little analogies that are drawn by one minister after another as they stand up and speak here. The opposition has never used an analogy for what will follow from the passage of this bill that suggests for one minute that it will be of a disastrous character the day after it has been passed. Never have we said that.

We have an analogy for it—that is, the consequence of a termite infestation. It takes months and months and years and years to crumble a house away if nothing is done to expunge the termites. It does not happen immediately but, piece of wood by piece of wood, brick by brick, gradually the house falls down and you have nowhere to live. That is the analogy. It is entirely appropriate because that is exactly what will happen. Everybody will experience the cold wind of this legislation but it will not be on day one. Some will experience it on day one. We heard about three of them during question time today—the government’s own workers. The government advertised what they intend for all of us. These workers experienced it on day one. They are the first piece of wood to be eaten by the termites.

The second element to their argument is the view that, somehow or other, even though it is bad for people it is good for the economy. Nobody who is a serious economic analyst of Australian affairs stands with them on that, no-one at all. It is simply, as the Prime Minister himself said at the last federal Liberal Party council, a statement of faith by the government. He made it amply clear that his reasoning for doing what he is doing on industrial relations did not relate to what was good for the economy. It did not relate to what was good for the Australian work force. It did not even relate to what was good for Australian business. It was, he said, an article of faith by the Liberal Party that this bill should pass. That article of faith has nothing to do with anything except a manifestation of extreme ideology. The passage of this legislation and the way in which they have responded to our questions over the last couple of weeks has exposed them for what they truly are—disrespectful, power-drunk extremists.

Australians are going to neither forgive nor forget the government’s arrogance, because this government represents extremism out of control. It has ridden roughshod over the Australian parliament. It has treated our people with disrespect and disdain. It has used economic arguments that even its own Treasury will not support. It has claimed a mandate that it does not have, all the while led by a Prime Minister who has not got the ticker to face me in a national debate on this subject—a Prime Minister who would rather hide behind a mountain of six million dodgy pamphlets. He would rather hide behind a $50 million carpet-bombing of the Australian
electorate as he corrupts the public purse for Liberal Party propaganda purposes. And he hides today behind a parliamentary guillotine.

Yes, Prime Minister, we are united in the war on terror, but we are against you in your war on Australian workers. So, on behalf of every Labor Party member, every Australian worker and every Australian family, I make this pledge: we are coming for you, mate. We are coming because you are no longer fit to govern, and we will fight until this fight is won. We will fight until we rid the country of your extremism, and we will put in place our own laws that give fair pay to workers and a fair go for everyone.

This Prime Minister and this legislation have broken the great Australian social compact—that is, a fair day’s work for a fair day’s pay; when you are obliged to provide more than a fair day’s work, a fair reward for doing so; and, when you and your employer cannot agree on the terms and conditions of that fairness, an umpire independent of you to make that determination. That has been the Australian social compact in one form or another for 100 years, put in place in fact not by the Australian Labor Party but by one of the predecessors of the Liberal Party of Australia.

Alfred Deakin was the man who did that, and it is celebrated in Victoria by an annual lecture which the Liberal Party use as an opportunity to present what passes for ideas on their part—mostly malevolent schemes for the Australian people. When Deakin did that, he said this: ‘Just as in international affairs we seek an arbitrator who will protect the national interest and prevent us from going to war with each other, so now, domestically, we seek that as well. We seek decent social conditions and a decent, civilised relationship between Australians. We seek that in the way in which we conduct ourselves in the most basic of human endeavours.’

The world of work is the world into which most Australians put their creativity. The world of work is the world in which most Australians earn the capacity to support the things that give them joy in life—their families and their ability to do things that interest them outside working hours. It is also where they develop their character, and this is an aspect of the workplace that a lot of people do not really comprehend. Part of that character is an ability to stand up for your mates, to stand up to your bosses or your supervisors when something is going wrong and to point those things out—it may have health consequences associated with it; it may help the company to greater prosperity or greater productivity. It is about having a work force of men and women that is creative and not cowed.

This nation-building and national-character-building social compact has been ripped out by the bill which has passed this parliament today, a bill aimed at cowing ordinary Australians. We have a Deputy Prime Minister who stands up and speaks of the comments of businessmen in outfits where the workers now no longer have collective agreements but have AWAs. It is the assertion of those businessmen about what is good that goes into the answers to his questions, not the assertion of their work forces.

I have found it interesting as I have gone around the country that parents have got the point, a point made by Wayne Allen, the dad of one of the people who were part of the Work Choices team which was sacked after a month on the job. The team had been explaining the Work Choices outcomes on the hotline. He said: ‘If the department that is responsible for the introduction and implementation of workplace reforms cannot look after its staff, specifically recruited to advise
the rest of the country on workplace issues, what chance does the average Australian have when they come into play? That is a very interesting question.

I think that an awful lot of parents are unrealistic in some of their anticipations. They are correct when they anticipate that this is going to be devastatingly bad for their children. They are correct when they fear the humiliation of their children as they find themselves dispensed with as apprentices, as foreigners are brought into this country, prepared to work for virtually nothing as apprentices, to put pressure on kids who are making choices about whether or not they want to train. They are correct when they fear those consequences. Those things are going to happen.

They are not correct when they assume that that is where the matter ends, because John Howard and his workplace relations minister are coming for the parents, just as surely as they have come for the children. They will come for them. They will force them gradually, slowly, over time, off their awards. They will prise them gradually, slowly, over time, out of their collective agreements. They will ensure, gradually, slowly, over time, that, as these agreements and awards fall due, they will collapse to the five basic default points which ignore all the things in a person’s wages and conditions which give them the capacity to do the things that are important: paying for their mortgages, their holidays and those things. They could well keep the kid going to a private school. Those are the things which will go as the penalty rates go, the shift allowances go and the redundancy pay goes.

All those things that are not covered by the five allowable matters will collapse to that default clause. Not the day after this legislation is passed but probably almost immediately we will be in this parliament asking questions about what is happening to the kids. But, by the time the next election comes around, we will be discussing in this place their parents. We will be going into that election, when the election is held in the next two years, with an absolute rolled-gold promise to the Australian people that we are going to dump this legislation. We are going to dump it in the bin where it belongs—gone. We will start again and rewrite the industrial relations laws that reflect the social compact, with the flexibility put into it by the Keating government.

There is no person more infuriated by the propaganda of the Liberal Party these days than Paul Keating. Paul Keating introduced some additional flexibility into the Australian labour market—I agreed with him at the time, as a cabinet minister—but that was flexibility based on a rigid no disadvantage test. It was flexibility based on collective agreements that were put in place in the firms around this country. It was flexibility based on an assumption of respect for the trade union movement and the preferences of workers to have the unions negotiate on their behalf. That is what was done by us. That is what produced productivity growth. Along with the other reforms we put in place, that is what gave this government the great economy on which it has coasted since coming to power.

We do not know what the economic conditions will be like when these matters are deliberated on, but if ever a government ought to be shamed it is by this report from the HSBC, when you think of all our reforms and the government’s tawdry performance. HSBC London said:

Sell your Aussie now, as its rise is flawed and its fall could be substantial, when it eventually comes. The situation is far worse than just a deterioration of the trade balance ... the external deficit is now the worst in history ... the Australian balance sheet is more of a debt story than an eq-
We are not clever enough to pick the timing of the turn in the AUD but we are smart enough to keep clear of unsustainable bubbles and advise you to do the same.

You have trashed the legacy of reform that you were given. You have coasted on it, you have lived off it, you have exploited it and you have failed—and you will be dealt with at the next election. *(Time expired)*

Mr ABBOTT (Warringah—Leader of the House) (3.33 pm)—The Leader of the Opposition’s matter of public importance claims that the government has in some way denied the parliament the opportunity for a proper debate. Let me make it very clear that this parliament has had every opportunity to properly debate these bills. When discussion on the Workplace Relations Amendment (Work Choices) Bill 2005 concluded at about 11 o’clock this morning, there had been 24 hours and 21 minutes of debate, including 88 speakers. This is probably the longest single debate in the history of the Commonwealth parliament. The previous record was set by the Research Involving Embryos and Prohibition of Human Cloning Bill 2002. That involved 23 hours and 36 minutes of debate. This government, because it cares about the parliament and because it cares about workplace relations, has allowed this parliament to debate this bill for longer than any other bill, it seems, in the history of this parliament. Not only has an unprecedented length of time been given for debate on this bill, but the government has debated this bill up hill and down dale. In question time we have debated this subject up hill and down dale for the best part of 10 years. So let no-one think that this government has not allowed ample opportunity for debate.

Let no-one think that this government has somehow ruthlessly used the guillotine. This government rarely uses the guillotine. Since 1996 there have been just 42 occasions when this government has used the guillotine. I point out for the benefit of the chatterboxes opposite that in the previous two parliaments, between 1990 and 1996, when members opposite were in charge, the guillotine was used no fewer than 437 times. In just six years members opposite used the guillotine 437 times. In almost 10 years the guillotine has been used just 42 times by this government.

We have had from members opposite for the last couple of weeks a constant demand that this bill be debated. ‘Debate the bill! Debate the legislation!’ they say constantly. Yet every time a member of the government has stood to debate this bill, members opposite have denied that member a serious opportunity to speak by taking constant points of order and raising the level of interjections to a level unprecedented in my experience of this parliament. Mr Deputy Speaker, it has probably been the most infantile display, from supposedly responsible adults, in the history of this parliament.

What can we expect from people led by the Leader of the Opposition? Members opposite should pay more attention to Mark Latham’s book. In many ways it is a vile document; nevertheless, as the member for Lalor has said, the truths in the book should not be ignored. Let me just turn to one truth, on page 112 of the book. The former member for Werriwa says of the Leader of the Opposition:

A big, bellowing cow in Parliament will never fool the public.

That is precisely what we have seen from members opposite over the last—

Mr Melham—Mr Deputy Speaker, I rise on a point of order. The minister cannot hide behind quoted words. I ask you to call on him to withdraw those comments. They are offensive in the extreme to the Leader of the Opposition.
The DEPUTY SPEAKER (Hon. IR Causley)—I thank the member for Banks. They may be hurtful but I do not believe they are unparliamentary.

Mr ABBOTT—Obviously the last thing I want to do is offend the member opposite, but let me point out that the words I have used were used by the person that the member for Banks wanted to make Prime Minister just 12 months ago. He is the person being offensive to the member for Banks, not me. It says something about members opposite that this person whom they were trying to foist on the Australian people as Prime Minister just 12 months ago is the one person whom they will not allow into this parliament today, even by way of quotation.

The Leader of the Opposition in his speech today tried to find some sanctuary in the views of former Prime Minister Mr Keating. Let me quote back to members opposite the views of former Prime Minister Mr Keating. I quote from the Bulletin of 30 August this year:

He—

that is, Paul Keating—

once derided Beazley to then sports minister John Brown. Beazley was minister for communications. Keating told Brown: “There are four dinosaurs in Australia—Qantas, Australia Post, the ABC and Kim Beazley—and the fourth dinosaur is in charge of the other three.”

So there is not much of a defence—

Mr Snowdon—Mr Deputy Speaker, on a point of order: can you tell me whether or not you regard those—

The DEPUTY SPEAKER—What is the point of order?

Mr Snowdon—Relevance. They are not relevant. I cannot see how they are at all relevant—

The DEPUTY SPEAKER—The member for Lingiari has not got a point of order. It is relevant.

Mr Snowdon—To what?

The DEPUTY SPEAKER—The member for Lingiari wants to debate the chair?

Mr Snowdon—With great respect, Mr Deputy Speaker, the topic for discussion is industrial relations, not the Leader of the Opposition.

The DEPUTY SPEAKER—The member for Lingiari has been in this House long enough to know that there is a right of reply. It is not unparliamentary and it is not outside the standing orders. The minister is in order.

Mr ABBOTT—We have had the Leader of the Opposition up here for 15 minutes accusing this government of attempting to destroy everything which is sacred and true and good about our society, even though the record of this government has been the delivery of unprecedented benefits to the working people of Australia. We have had the Leader of the Opposition constantly blackguarding members of this government. The least I can do is to quote back to members of the opposition what their former leader really thinks of the Leader of the Opposition and what their former Prime Minister really thinks of the Leader of the Opposition.

Let me explain to members opposite. The Leader of the Opposition talked today about termites. He said that what the government is doing is like a termite attack on a house. We have had 10 years of ‘termite attack’ now, and I have to say the house is bigger, stronger, more substantial and more beneficial to the people who live in it than ever before. What have we had from this government’s workplace relations reforms? We have had more jobs, higher pay and fewer strikes. We have had a 15 per cent increase in real wages over the last 10 years, compared with just a one per cent increase in real
wages under the 13 years of the former government. We have had unemployment fall to five per cent. That is still too high, but by modern Australian standards it is an outstanding result. And what did we get when the Leader of the Opposition was minister for employment? We had unemployment at 11 per cent and the Leader of the Opposition saying that in no portfolio had he found fewer opportunities to do what he wanted to do than in the employment portfolio.

What we have really been seeing over the last few days is a desperate attempt by the Leader of the Opposition to redeem himself with his colleagues. He has been clutching at this opportunity to repeat the tired old shibboleths of the union movement as a drowning man clutches at straws. Members opposite know that this is not a man with any ideas or any real conviction for the future of the people of Australia. As testimony to this, let me quote this truthful diarist—in the words of the member for Lalor—speaking of the Leader of the Opposition on page 118:

I’ve listened to hundreds of his speeches now and not once have I heard anything interesting.

You could certainly say that after today’s MPI debate. Also on page 118, Latham says of the Leader of the Opposition:

He’s a boredom machine ... he’s always dumbing down the debate.

On page 49 Latham says:

Beazley never talks about the future. He makes speeches and briefs the media as if he is scared of the future.

The Leader of the Opposition says: ‘Oh, yes, just wait and see. We will come in with these policies and, by gee, you will quake to see them.’ But what does the man whom he wanted to make Prime Minister a year ago say? On page 52 Latham says:

He’s a funny sort of leader: no guidance as to what these policies—

(Quorum formed)

I simply want to know why the member for Lingiari is so scared of the words about the current Labor leader that the former Labor leader put in this book. Let me quote to the member for Lingiari the words of the man he wanted to make Prime Minister just 12 years ago. The former Labor leader says about Beazley:

He’s a funny sort of Leader ...

Mr Snowdon interjecting—

The Deputy Speaker (Hon. IR Causley)—The member for Lingiari is warned!

Mr ABBOTT—He continues:

... no guidance as to what these policies might be, no philosophy to direct and shape the process, no ideas of his own, just an order to commence. He’s like a general ordering his army to march, but not saying in which direction.

Then on page 61 of The Latham Diaries, he says:

Under Beazley, opportunism always knocks ...

On the next page, page 62, he says:

Beazley is the first Labor leader to take our thinking backwards.

On Page 112, he says:

The Beazley culture is scab-lifting—see an issue, a public sore, and try to lift the scab without offering your own remedy.

On page 129, he says:

Beazley has melted down but the Party professionals are trying to get out the line that it’s because he’s a windbag ...

I do not mind plagiarising the former Leader of the Opposition: the current Leader of the Opposition is a windbag. But the daddy of them all is on page 112, where he says about Beazley:

... putting a tough surface on a blancmange is bound to backfire ... A big bellowing cow in Parliament will never fool the public. They want to see the character and conviction of an issues-based Leader.
I make this fundamental point: if the Leader of the Opposition cannot convince his own party, he will never ever convince the Australian people that they should make him the Prime Minister of this great country. (Time expired)

Mr MELHAM (Banks) (3.48 pm)—I rise to support the matter of public importance lodged by the Leader of the Opposition, which is in the following terms:

The Government’s total disregard for the interests and wellbeing of working Australians and their families by denying the opportunity for a proper debate of its extreme industrial relations changes.

At the outset, I will deal with some of the matters raised by the Leader of the House. I have known the Leader of the House for some time—not just the time I have been in this parliament; we went to university together. He has not grown one bit. He might be the favoured son of the Prime Minister, but that his contribution just before mine was a complete diatribe against the Leader of the Opposition and did not go to the matter of public importance shows that he still has the same debating style he had at university. He was never any good at university and he is not much better as a minister of the Crown. The arrogance he showed is what this MPI is all about.

I have been in this place for 15½ years and I know what a proper debate is and how it takes place. We have not had that sort of debate on the Workplace Relations Amendment (Work Choices) Bill 2005. Instead, we have had a bill of 687 pages and an explanatory memorandum of 565 pages that was lodged in the parliament on 2 November 2005—only eight days ago. Before that, we were debating a press release, as no-one had seen the bill. This is not the first time the government has done this.

A government with a majority in both houses should be benevolent. It should allow for proper process in the parliament. Indeed, we were told by this Prime Minister how, when he was elected, he would improve the standards in this House; they are worse than they have ever been. Former Prime Minister Keating had much more to say in two days of question time a week than this Prime Minister and his ministers have to say over the whole of the week. We get no information; we get nothing.

But, with this bill that was tabled, we have a situation where 20 members on this side of the House have been denied their right to speak. The member for Lingiari puts his hand up; he is one of them. What does that mean? Those 20 members represent two million constituents. The representatives of two million people have been denied the right to speak in this House in relation to this bill—a bill introduced only eight days ago. What was given to us? One hour of consideration in detail. I remember reading the Hansard in 1975, when the Prime Minister engaged in detailed consideration of the then Racial Discrimination Act and put his views against penal sanctions for racial hatred provisions. He has held those views for a long time. The Whitlam government knew how to have consideration in detail debate. That is where you get to challenge the minister. You can ask the minister to clarify. You can go into forensic debate on a bill. There has been none of that, only one hour—a contemptible process.

We also have the situation where a Senate committee that has been set up to start on 2 November—in effect, the day the bill was tabled in the House—has a closing date of 9 November and a reporting date of 22 November. As of today, the committee’s website indicates that it has received 4,500 submissions and 1,000 emails. This is what has come from a government with a majority in both houses. The Prime Minister seems to be acting with indecent haste, salivating to get this legislation on the statute books. We saw
him today seeking out members of the government to shake their hands. He is like a little boy in the lolly shop; all his Christmases have come at once.

The tragedy is that the Prime Minister did not go to the electorate and seek a mandate on these changes. The electorate had no inkling of this. That is why the $55 million government advertising campaign, which happened before the legislation was introduced into the parliament, has had no effect on the community. The penny has dropped that he is out of his box. The community know that this is not going to be any good for them. The government are doing business with a $55 million advertising campaign, not a proper debate. We have had public broadcasts in relation to other matters, with the Prime Minister and the Leader of the Opposition given equal time on the ABC—but this time there is none of that. This Prime Minister and his government are now all about political opportunism. They try to, in effect, marginalise the opposition and milk the issue for all it is worth.

This will come home to roost. I have a different analogy from my leader’s on this legislation. I think this legislation is a cancer. It is a cancer that will grow and grow and come to eat at the heart of this government over time, with the electorate saying, ‘This is unfair; this is un-Australian; this is not what we voted for.’ There are many people out there who voted for this government and are now going to get their comeuppance through this legislation.

The member for Hotham correctly pointed out that collective bargaining is essential to protect people’s living standards, because, simply put, an individual up against the boss is not a fair match. That is why unions were formed: there had to be a representative body in order to rebalance the workplace in a sensible way. The member for Batman, also a former president of the ACTU, had this to say:

This government is seeking to do one thing: weaken already vulnerable workers, especially young people and women, in the most vulnerable workplaces in the Australian community, by denying them any real bargaining opportunity.

Why should the government do this at a time when there is good employment? Why do they hate workers so much? Because they are an ideologically driven government; they cannot help themselves. With the majority that they now enjoy in the Senate, which was unexpected, they are bringing everything out from the bottom shelf and into legislation. You reap what you sow in this game.

The Prime Minister was elected in 1996 on a fraud—he said he was going to govern for all of us. The basis of his election campaign was that he was not going to upset the apple cart, he was going to govern for all of us and his would not be a radical government. This is very far-reaching and radical legislation. The sad part is that the parliamentary process is being usurped. The Leader of the House was comparing apples with oranges. Go and have a look at the earlier substantive debates that took place. There were not another 20 speakers left to speak; there was agreement on both sides, because they were regarded as important debates. I negotiated set periods of time on the native title legislation. It was done by agreement, and there were consideration in detail stage debates. We are elected into this place as parliamentarians. Why isn’t there a House of Representatives committee or a joint committee looking at this legislation? Why do we have to sit back and see the Senate conduct legislation review, while in this chamber we get neutered by the government?

I have served on a number of committees in the 15½ years I have been in this place. Our committees are just as capable of look-
ing at this legislation, but for some reason the government just want to bounce it through the House. Why? Because it is all an inconvenience to them. It is all too much. Well, get out of the parliament, I say. I believe in the committee process and that the executive should pay respect to the parliament. Our committees should be functioning properly, and question time should be a time for information. Question time is a disgrace. It is 10 times worse than anything that occurred under the Keating government. You can tell by the state of the gallery; there is hardly anyone in the gallery during question time. During the Keating years, the galleries were full. You got entertainment, but you also got a bit of information. Yes, the government went a little too far. At the time, I did not believe the Prime Minister should only come into the House twice a week. I made the analogy of Bradman: you would not put Bradman on the fence; you would have him in there batting for as long as you could.

What happened with this legislation is a disgrace. This parliament has been treated with contempt. Twenty members of this House, representing two million Australians, have been denied an opportunity to speak in this House. The consideration in detail stage was a farce—one hour only. (Time expired)

Mr McARTHUR (Corangamite) (3.58 pm)—Today is a very historic day. I put on the public record my pleasure at the passing of the Workplace Relations Amendment (Work Choices) Bill 2005, which was signed by the Prime Minister and the Minister for Employment and Workplace Relations. It is now a very historic document. I totally reject the view of the member for Banks that the legislation is radical. We are looking at the Leader of the Opposition’s proposition that there has not been proper debate on the industrial relations legislation.

I will run through the historical record briefly and then look at more recent history. In this parliament, we all know that the industrial relations debate started in the mid-1980s and that the advocacy by me, the Prime Minister and a number of other people foreshadowed possible changes to the industrial relations laws in Australia. Those debates continued and, from opposition, we convinced the then Labor government and Prime Minister Keating that some changes were important for productivity and the improvement of living standards in Australia. Prime Minister Keating made the famous statement in 1993 that there should be some changes to the industrial relations legislation.

The Leader of the Opposition has referred to the reforms of Peter Reith in 1996, with particular reference to the waterfront. Other members opposite have made comments about the changes to the waterfront. I draw the House’s attention to those changes and say that the waterfront has never performed more efficiently; it has never been more reliable. Salaries were annualised, there was no overtime, AWAs were introduced and the waterfront problems were fixed for the first time in history. The Hawke and Keating governments were unable to do anything about the waterfront, disregarding a number of inquiries that they had. Containers now move at 25 to 28 per hour. I put it to the opposition that no commentator would suggest that the changes to the waterfront have been a failure. Those opposite talk about balaclavas and all those sorts of things. But I put it to the House and to everyone that every commentator, the farmers, the exporters and the importers know that the waterfront reforms have been a great success.

Now we move to the more recent industrial relations debate. The government and the minister were criticised for foreshadowing as early as May the outline of the industrial relations legislation. We received com-
mentary from our own supporters asking why we would foreshadow what would be in the legislation, what would be the detail and what would be the thrust of the legislation. Probably never before had there been so much information on the public record about a very important, historic piece of legislation that would be brought forward to the parliament in September or October—so much so that the ACTU then ran a number of television and advertising programs that were blatantly false, blatantly misleading and generally misrepresented the government’s intentions in relation to industrial relations.

The government then produced a booklet, which the opposition have spent many hours of this debate talking about—WorkChoices: A New Workplace Relations System. This 65-page booklet went into a lot of detail as to what would be in the legislation. So nobody in Australia—no commentator, no Labor Party member, no trade unionist—could have had any misunderstanding as to what the government had in mind. And no member opposite has been able to draw any difficulties with what was foreshadowed in broad terms in the yellow booklet, which was widely distributed and which the members from the opposition are complaining so bitterly about. That booklet foreshadowed quite clearly what the government had in mind. That was incorporated in the 700-page document that was passed so historically this morning.

So much for what the legislation was going to be, what the intention of the government was going to be; now we move to the argument that there was insufficient time given to this House to debate such an important bill. Let me draw to the attention of the House some previous bills during the time of the government which have been controversial, which have been interesting and which have involved enormous public debate and division. The debate on the Research Involving Embryos and Prohibition of Human Cloning Bill 2002 took 23 hours and 36 minutes and there were 109 speakers; the Telstra (Transition to Full Private Ownership) Bill 2005, 17 hours with 57 speakers; the Native Title Amendment Bill 1997, 14 hours and 47 minutes with 53 speakers; the Higher Education Support Bill 2003, 13 hours and 40 minutes with 55 speakers on a cognate bill; and the Euthanasia Laws Bill 1996, 13 hours and 31 minutes with 76 speakers.

Now we come to the Workplace Relations Amendment (Work Choices) Bill 2005. In the second reading debate we had 77 speakers, which took a total of 22 hours and 44 minutes. This did not include the introduction of 30 minutes and the summing-up speech of 10 minutes. The consideration stage of one hour had 11 speakers. That gave an opportunity for those opposite to put a point of view and to look at some of the detail in the legislation, which meant there was a total of 24 hours and 21 minutes, which included 88 speakers.

The government made the unusual offer to allow those members opposite who had a prepared speech to include their statement directly into Hansard so that they could put their position on the public record—a most unusual parliamentary procedure—so that those opposite who were worried about their preselections from their trade union bosses could put it on the record: they could attack the legislation, they could say how terrible it was and they would get a cheer back home when their preselection came up. The two members at the table, the member for Jagajaga and the member for Bruce, smile quietly because their preselections are under a bit of threat. My good friend over there has the numbers. He will have it on the record and he will be saying to his trade union colleagues and friends, ‘This is what I said about this terrible, draconian legislation.’
I reiterate the point that the Leader of the House made that the ALP government used the guillotine on 400 occasions. I well remember when the Hawke-Keating government would come in here, when I was in the opposition for many long years, and the guillotine would drop and we would be told that there were to be no further speakers. On our own side we have used the guillotine 42 times. That is what the Leader of the House has reported to the parliament today. So we have the situation where debate has never been more fully allowed for those opposite to put their points of view.

The opposition have put some amendments forward. They have amendments here that are so long I cannot believe it. None of them stand up to scrutiny. I was going to deal with them one by one but time will not allow me. Suffice to say that the arguments have been made yet again by the Leader of the Opposition that there has been a total disregard for the interests and wellbeing of working Australians and their families, denying the opportunity for proper debate and imposing extreme industrial conditions. That just demonstrates the problem we have. I have read most of the speeches of those members opposite; I have heard a number of them. I have yet to hear the two members sitting at the table criticise in the detail and the thrust of the legislation anything that could be wrong. They use this rhetoric about ‘extreme conditions’. They use the argument about proper debate. I have never seen such debate in my 21 years in the parliament, where people have been able to get up in here and put strong points of view.

I concede the point that those opposite have had some very strong views, not well backed up by the facts about the employment of Australians, young and old. We have a 5.1 per cent unemployment rate, which is unprecedented. Our prosperity has increased by 14 per cent over the 9½ years of the Howard government. They conveniently overlook these figures. The Prime Minister has advocated these changes. The Prime Minister has argued the case here in the parliament. Even the Prime Minister had a chance to put a point of view in the parliamentary debate. He spent 20 minutes arguing the case that he has argued so strongly and valiantly over the last 25 years. I put on the record the great support that I had for the Prime Minister and that he had for me in those difficult days when BHP and some of the other bigger companies did not agree that we should have a more flexible system. It was due to the courage and the fortitude of the Prime Minister and others that we got the legislation to where it is. We argued the case in quite difficult circumstances. We argued it in the parliament and the parliament has agreed with our position. (Time expired)

The DEPUTY SPEAKER (Hon. IR Causley)—Order! The discussion is now concluded.

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

Oil for Food Program

Mr HOWARD (Bennelong—Prime Minister) (4.08 pm)—Mr Speaker, I seek the indulgence of the chair to add slightly by way of clarification to an answer given in question time.

The DEPUTY SPEAKER (Hon. IR Causley)—The Prime Minister may proceed.

Mr HOWARD—The question related to the Volcker inquiry into the United Nations oil for food program. Mr Volcker’s report found that an Indian political party and an individual, Mr Natwar Singh, the then Indian foreign minister, received benefits. As a consequence of Mr Volcker’s finding, the Indian government is conducting an inquiry and Mr Singh has stood aside from his position as foreign minister. I believe those words, rather than the word ‘adverse’, more accu-
rately depict what happened. The question of whether it is adverse in a sense is a matter for the inquiry.

**TAX LAWS AMENDMENT (SUPERANNUATION CONTRIBUTIONS SPLITTING) BILL 2005**

Report from Main Committee

Bill returned from Main Committee without amendment; certified copy of the bill presented.

Ordered that this bill be considered immediately.

Bill agreed to.

**Third Reading**

Ms Ley (Farrer—Parliamentary Secretary (Children and Youth Affairs)) (4.09 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

**COMMITTEES**

Publications Committee

Report

Mrs Draper (Makin) (4.10 pm)—I present the report from the Publications Committee sitting in conference with the Publications Committee of the Senate. Copies of the report are being placed on the table.


Electoral Matters Committee

Membership

The Deputy Speaker (Hon. Ir Causley)—Mr Speaker has received a message from the Senate informing the House that:

Senator Wortley has been discharged from the Parliamentary Standing Committee on Public Works and Senator Forshaw has been appointed a member of the Committee.

**ANTI-TERRORISM BILL (No. 2) 2005**

Second Reading

Debate resumed.

The Deputy Speaker (Hon. Ir Causley)—The original question was that this bill be now read a second time. To this the honourable Leader of the Opposition has moved an amendment that all words after ‘That’ be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand part of the question.

Ms Macklin (Jagajaga) (4.11 pm)—The amendments moved by Labor are very important improvements to the Anti-Terrorism Bill (No. 2) 2005 and a significant recognition of the need for a clear view of the sensitive balance between protection of the community and protection of individual rights. These major changes to the bill go some way to protecting our basic freedoms without compromising the effectiveness of the regime to fight terrorists. These changes to the bill better reflect the great Australian characteristics of exhibiting a healthy scepticism about authority and of rejecting the overzealous exercise of power.

Labor’s second reading amendments highlight a number of very important changes we would like to see in this bill specifically and more generally in relation to national security matters. For a significant time now, Labor have been calling for reasonable and
practical measures to protect Australians and Australian property and infrastructure. Indeed, the Leader of the Opposition, Kim Beazley, made a comprehensive statement on these issues immediately after the September 11 attacks, and we remain very concerned—all these years later—that sufficient action has not been taken early enough in relation to protective, practical measures.

The amendment we have moved details a number of measures to address instances where we believe that, unfortunately, the Howard government has dropped the ball. For example, on aviation security Labor continues to call for 100 per cent penetration of X-ray examination of international baggage, the upgrading of regional airport security, the proper coordination of all security and the effective operation of security identification procedures. These are all areas where the federal government at the moment is not up to scratch. Similarly, in relation to maritime security, Labor remains very concerned at the government’s continuing failure to X-ray any more than 10 per cent of containers transiting ports, at its failure to require early identification of ship crews and cargoes and at its failure to clamp down on single voyage permits for dangerous cargoes around our coast.

There are also a number of other areas where we need greater protection, and Labor have proposed that we have a national public interest monitor and an independent statutory authority to oversee the Australian Federal Police. We have also called for expanded resources for the Inspector-General of Intelligence and Security. Very importantly, we would like to see the parliamentary committee which oversees the intelligence agencies have the authority to oversee the counter-terrorism functions of the Australian Federal Police as well as have more access to classified information. I am also of the view that this bill ought to more closely reflect the UK’s legislative requirement for proper parliamentary scrutiny—that is, the responsible minister should be required to report to the parliament every three months on the use and operation of control orders, preventative detention orders and prohibited contact orders. That would also improve the legislation we are currently debating.

Throughout my contribution today I have emphasised the need for the parliament to act on national security and at the same time to keep in mind the requirement to maintain a tolerant, cohesive and harmonious community. This is so important today with the arrests that have been made. We have put forward a private members’ bill to criminalise incitement to violence on racial or religious grounds.

Another area where we have put forward positive proposals, which we would encourage the government to adopt, is in the teaching of respect for Australian values in all Australian schools. It is very important that children are taught at as early an age as possible about the importance of tolerance and respect in our multicultural community. Schools, of course, have a significant responsibility to make sure that all of our children grow up with a very strong understanding of civics and the values that are so necessary for maintaining our open and diverse society. This needs to apply in all our schools, whether they are government or non-government, religious or secular. We need to teach our students respect for our democratic values and institutions and also make sure that our schools do not use inflammatory material in the education of young people.

I finally want to say a few things about the sediton offences in this legislation. I understand that the Attorney-General, Mr Ruddock, has already indicated that he knows there are problems and concerns with the
new sedition offences contained in this bill and he has already agreed to a review of these provisions. It will be far more sensible to have this review before entrenching what so many people, including the Attorney-General, believe are flawed new additions to the law. This way we can have an improved offence without some of the flaws and unintended consequences that go with the current proposals.

Labor will seek to delete the sedition offences as currently drafted in the bill. We are intent on making sure that any offence of sedition does not restrict fair commentary, artistic expression or reasonable criticism and we certainly do not want to see this sedition offence restricting peaceful industrial, political or artistic protest. I am very concerned that the sedition offence as contained in the bill before us may well restrict these legitimate activities. We certainly do not want the current draft to go ahead, because of the problems that so many people have identified. Let us have a proper review of the current sedition laws—an open and consultative review; not one done behind closed doors.

I am pleased to see that the member for Wentworth is following me. I hope that he, too, will support our efforts to have this open and consultative review so that any new laws on sedition do not restrict Australians’ rights to peaceful protest. I hope the member for Wentworth will support Labor’s move to delete the sedition offences as they are currently drafted in the bill.

If these sensible approaches are not successful, Labor is committing to replacing these offending parts of the sedition offences when in government. Having made our case, however, we will ultimately support this bill and support the agreement with the state premiers. We do so because Labor has always stood for strong national security protection in balance with the protection of community and individual civil rights. We have achieved significant improvements to this bill. There is more to be done, but if we do not achieve them here we will certainly take these changes to the next election. (Time expired)

Mr TURNBULL (Wentworth) (4.19 pm)—In the short time left to me before the adjournment debate I shall deal with the matter of sedition. When my speech resumes I will turn to the other parts of the legislation. The Anti-Terrorism Bill (No. 2) 2005 before us makes a number of amendments concerning the law of sedition. As is well known, the backbench committee has expressed some concerns about this law and the Attorney-General has undertaken to conduct a review of the sedition offences in the new year. Sedition is currently dealt with in the Crimes Act 1914 part II, which also deals with treason, sabotage, inciting mutiny and unlawful drilling among other similar, essentially political, offences.

The offences in the Crimes Act relating to sedition are almost all repealed by this bill by repealing sections 24A to 24E. However, the old definition of seditious intention currently in 24A is now inserted at the end of section 30A and slightly updated to remove references to ‘classes of Her Majesty’s subjects’ for example and replacing it with a reference to ‘different groups’. But it still involves a definition which states that seditious intention means, among other things:

An intention to effect any of the following purposes, that is to say:
(a) to bring the Sovereign into hatred or contempt;
(d) to excite disaffection against the Government or Constitution of the Commonwealth ...

And so forth. The only remaining element in the Crimes Act relating to sedition, therefore, is that an association or body of persons ‘... which by its constitution or propaganda or
otherwise advocates or encourages ... the carrying out of a seditious intention ...’ is an unlawful association. It is an offence, among other things, to be a member of such an association. There is no defence of good faith criticism of the government of the kind used both in the current sedition offences of the Crimes Act or of the kind proposed in the new section 80 of the Criminal Code.

In defence of these unlawful associations provisions it could be said that, apart from updating the definition of seditious intention, there has been no change. But this bill has shone a light on the provisions concerning unlawful associations and they undoubtedly appear archaic and difficult to understand. It is no wonder that they have not been used, at least to anybody’s recollection. These provisions, if excised, would not be missed.

The more substantive sedition offences are to be moved to the Criminal Code. While the new provision, section 80.2, is headed ‘Sedition’, it does not pick up the old definition in the Crimes Act, but simply sets out a series of offences in a form broadly in line with the recommendations set out in the Fifth Interim Report of the 1991 Review of Commonwealth Criminal Law, chaired by Sir Harry Gibbs. Subsections 1, 3 and 5 constitute offences of urging a person to use violence respectively to overthrow the government, interfere with elections or stir up violence between groups of people, such as those of different races or religions.

The bill also provides that a person can be guilty of these offences if they are reckless. Section 5.4 of the Criminal Code states that a person is reckless if they are aware of a substantial risk that a result will occur and, having regard to the circumstances known to them, it is unjustifiable to take the risk. Nonetheless, it is a high bar and would, in practice, describe a state of mind that is very close indeed to actual intent. Of course, it is important to note, especially in the context of the community concerns that have been raised about the sedition provisions, that the ‘urging’, referred to in new section 80.2(1), must be intentional. It says:

(1) A person commits an offence if the person urges another person to overthrow by force or violence:

(a) the Constitution; or

(b) the Government—

Under sections 5.2 and 5.6 of the Criminal Code, ‘urging’ is conduct which must be proved to be intentional if it is to be an element of an offence. It is not possible to recklessly urge anything. I recognise that some distinguished lawyers, including Bret Walker QC, have expressed the contrary view that ‘urging’ could be unintentional or inadvertent. This view underpins the bulk of the concerns expressed in the submission by Fairfax, News and the West Australian, which contends for a specific defence for journalistic expression. While I respectfully disagree with Mr Walker on this point, if the Attorney, in the light of that advice, were to consider that there is room for doubt on this issue, a few clarifying words could no doubt put the draftsman’s intention beyond doubt.

Subsections 7 and 8 of the new section 80.2, again in line with the Gibbs report, make it an offence to urge a person to assist the enemy. There is an exemption for conduct which is in the nature of humanitarian aid. The defences are described as being for ‘acts done in good faith’ and essentially exempt criticism or commentary of a political kind. Concern has been expressed by many people that these laws could muzzle free speech. Many of my constituents, especially those in the arts and media, have proposed that there be an express provision to protect artistic and journalistic expression.

I can well understand why people would be apprehensive about these provisions. The
language is very old-fashioned and the offences are difficult to follow. I doubt very much that the provisions proposed could apply to artistic expression. It is important to remember that the core offence is that of ‘urging’ violence, not of uttering words which may cause others to engage in violence, and this is where the point raised by Mr Walker is critical. If you accept his view, then the concerns expressed by many in the arts and the media obviously have a great deal more force.

Journalists have also expressed concern about the ability by police to obtain documents set out in new section 3ZQN relating to serious terrorism offences resulting in journalists being obliged to betray confidences, and they have sought a specific shield law to preclude that from happening. It should be noted that the only matters to which such documents can relate are listed in section 3ZQP and basically relate to accounting data of a kind held by financial institutions, airlines, telephone companies and utilities. A journalist’s notebook would not fall into this list at all. So while the concerns expressed are very genuine and should be noted in the review that the Attorney is going to undertake, I am very doubtful that they are likely to arise in practice. Nonetheless, the language is far from ideal, and it is for that reason that Canada and New Zealand have dropped the offence of sedition completely.

In 1977, the United Kingdom Law Reform Commission recommended that in principle it was better to rely on ordinary offences of inciting violence than to resort to an offence which would always carry with it, because of its history, an inference that any prosecution was political. Relying simply on a law which proscribes incitement to violence is consistent with article 20 of the International Covenant on Civil and Political Rights, which prohibits ‘any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence’.

When you reflect on the new sedition provisions in the Criminal Code, it is difficult to see a circumstance where they could, in practical terms, be used to circumscribe free speech. Indeed, the much broader language in the Crimes Act, which I have discussed, has not been used in living memory. Despite these reservations and in the context of the promised review, I support the bill in its entirety. Every law is passed in a context, and the context of these sedition provisions is that they will be reviewed. I would be very surprised if they are not recast in due course in language which is clearer, more contemporary and therefore easier both to enforce and to comply with. Put another way, these amendments to the law on sedition, by which I mean the provisions in schedule 7 proposed for the Criminal Code, do improve the law, because they express it in terms of urging violence. But more can and, in my view, will be done.

In the UK draft Terrorism Bill, released by the Home Secretary on 6 October, there is a provision which effectively makes it an offence to make a statement glorifying terrorism if the person making it believes, or has reasonable grounds for believing, that it is likely to be understood by its audience as an inducement to terrorism. This is a very clear, but nonetheless controversial, attempt to confront those who are proselytisers of terrorism and the promoters, urgers and encouragers of suicide bombers. I have no doubt that the Attorney will be giving the most careful consideration to the manner in which conduct glorifying terrorism of this kind is dealt with under the law as it stands or could be dealt with under the law as it is reviewed.

Debate interrupted.
The SPEAKER—Order! It being nearly 4.30 pm, I propose the question:
That the House do now adjourn.

Member for Wentworth
Workplace Relations Legislation
Minister for Employment and Workplace Relations
Minister for Health and Ageing

Ms GILLARD (Lalor) (4.30 pm)—It is time for the fortnightly wrap and some observations on the fortnight that has been. I would like to start with an observation about the member for Wentworth, because we know that the Minister for Health and Ageing made a very big gaff today. He referred to the member for Wentworth as the Treasurer. Do you know what a gaff is for a politician like the minister for health? I will tell you: it is when he accidentally tells the truth.

So there was one truth told by the Howard government in the parliament this week. The biggest thing this week has been the industrial relations legislation. That raises this question: why does the Prime Minister want our working lives to be nasty, brutish and short? I think it is because he wants to remake Australia in his own image—nasty, brutish and short. For a sense of just what gratuitous violence the government has done to democracy this week, consider the following. They gagged debate through a guillotine and then the guillotine fell. More than 20 Labor members have been bound at the mouth and the debate has had its head chopped off.

No wonder it was a Quentin Tarantino sort of week! My colleague the member for Perth has taken up the cry of millions of Australians, ‘Pulp the fiction; kill the bill.’ What really worries me is that for 2006 the government will be planning to go further down the Tarantino road in parliament and in the community. Quentin Tarantino’s two upcoming films have the working titles Grind House and Inglorious Bastards.

And it has been a big fortnight for the Minister for Employment and Workplace Relations. When the Prime Minister declared war on workers with extreme industrial relations changes it was nice to have some comic relief—some light and shade—and boy have we had some comic relief from the minister for workplace relations! I know that my colleague the member for Perth thinks that the minister is a poodle or an opera glasses kind of guy. But to be fair to the minister, it is not as if he carries his own opera glasses. That, of course, is what the butler is for!

Some people I know think the minister is impersonating Mr Bean, but let us face it, Mr Bean knows when to shut up. In fact, the minister is not impersonating a person; he is impersonating a Muppet. He is channelling Bert from Sesame Street. I am sure we all remember Bert from Sesame Street. Maybe that is fair enough, but I challenge the minister to come into the House and deny that he talks to pigeons and has a paperclip collection. I am sure that he talks to pigeons and has a paperclip collection! And we would also like him to deny the persistent claims that the Prime Minister made this bloke a minister so there would be at least one bloke on the front bench who was a bigger nerd than he.

And then we had comic relief to top it all off at the end of a fortnight. It was a fortnight of extreme industrial relations changes, when we saw the worst of the Howard government on display. Today, we saw government members high-fiving, and congratulating and backslapping each other when the bill was rammed through the House. We saw them celebrating what is going to be the imposition of a world of misery on Australian
workers. It was the worst of the Howard government on display.

**Fran Bailey**—Why don’t you stick up for small business.

**Ms GILLARD**—We are sticking up for small business, and the minister at the table indicates that she knows nothing about small business because if she did she would be lifting the red tape burden off them—and she is not doing anything about that.

At the end of a week when we saw the worst of the Howard government on display we at least saw one other thing—the comic performance of the Minister for Health and Ageing in today’s question time. We now know how to shut the minister up. You hold up a newspaper headline saying, ‘Secret Howard health plan matched Labor’s’ and he just can’t cope. He winced, stuttered and sat down.

I think the truth is that he has secretly been to *Celebrity Overhaul*. He used to be a hard man; now he is blowing kisses at the Leader of the Opposition and cuddling the Treasurer. He is a hard man who when confronted with any pressure in this parliament, behaves like a nervous kid on *Australian Idol*. But given his performance as minister for health we know that if the member for Warringah were on *Australian Idol* you would be spelling the last word i-d-l-e. *(Time expired)*

**Mr Len Buckeridge**

**Mr TUCKEY** (O’Connor) *(4.34 pm)*—During my term as shadow minister for service personnel I met with the men and women of the services all around Australia to discuss their problems in dealing with service life. Time and again they mentioned an ambition to be transferred to WA, where they could afford, on their salaries, to purchase high-quality housing, much of which is constructed in the electorate of Brand.

The principal reason that double brick housing in WA is tens of thousands of dollars cheaper than in other states is a builder named Len Buckeridge, who years ago took on the trade union movement, vertically integrating his business every time the unions cut off supply of building materials and, further, passing on the savings of that process to first home buyers. His workers operate on subcontract and are highly specialised. Their earnings are in multiples of the relevant awards but they produce value for that money.

Some three or four years ago, in response to a looming shortage of clay bricks and price escalation of that product in WA, he purchased and shipped to WA a once-operating brickworks from Germany. It met every environmental standard of the European Union and, according to Mr Buckeridge, was so efficient that a substantial reduction in brick prices would be delivered to new home builders such as those in the electorates of Brand and Hasluck, which are growth electorates in WA.

That machinery remains in storage to this day due to the determined efforts of the WA McGinty-McTiernan government to prevent Mr Buckeridge obtaining land for its operation. Eventually he approached the Commonwealth, who directed him to the lessee of Perth airport in the interests of thousands of future home owners in WA. The airport lessee and the Buckeridge organisation have, I believe, come to an agreement which has caused some community opposition.

Last night, in attempting to exploit that fact, Senator Sterle referred to remarks I had made in this House on 11 August in support of this process as ‘Wilson’s little slip.’ It was no slip. Everything I said was deliberate because I believe that the people of Perth and the people of the electorate of the Leader of the Opposition are entitled to good quality
housing at the lowest possible price—and in WA bricks are a substantial component of every house constructed.

Senator Sterles’s little slip is that he has again let the union cat out of the bag. Labor does not care about cheaper housing if it can close down the hated Buckeridge business. The land that has been made available to the Buckeridge organisation is quite close to another brickworks at the old Midland Abattoir site, where a previous Labor government sold land for the project for a fraction of its worth.

A previous state Labor minister had to be sacked a little while ago when the courts rejected his efforts to increase the cost of taxpayer funded public housing by rejecting the lowest bids his department received, submitted by the Buckeridge organisation. In his speech, Senator Sterle could not resist applying a bit of Labor philosophy. He suggested that the action of the federal government to guarantee Western Australians sufficient bricks at affordable prices was all about party donations.

Had the McGinty-McTiernan government acted as one would expect—I am sure the Queensland Labor government would have done so—and bent over backwards to provide suitable land in another location in the interest of WA industry development and home prices, the concern of some locals—whom Senator Sterle mentioned the other night—regarding the facility would not exist. I deny that it represents a health threat; the only reason the development is going where it is is that the WA Labor government has worked assiduously to ensure that the machinery stayed in a warehouse and the people of Perth paid a premium for, on some occasions, imported bricks. Senator Sterle stands condemned for his actions. His leader should apologise to the residents of the electorate of Brand for this deliberate act to increase the cost of their future homes.

In his CV, Senator Sterle claims to have represented the Transport Workers Union from 1991 to 2005. He might have used his time in the Senate to attack the McGinty-McTiernan government for putting up registration fees on trucks and excise on trucks in a conspiracy with its Labor state colleagues. A senator represents all of WA. If those prices go up, the cost will increase. *(Time expired)*

**Australian Muslim Community**

**Mr MARTIN FERGUSON** (Batman) (4.39 pm)—Last Sunday I joined the Muslim Eid Festival to mark the end of Ramadan. What should have been a joyous time of the year for the Muslim community was dampened by concerns in this current climate over the propensity for the whole Islamic community to be tarred with the ‘terrorist’ brush. I was a guest of Sheikh Fehmi, the leading cleric of the Preston mosque, who for more than 50 years has been at the centre of interreligious dialogue aimed at building a moderate and harmonious Muslim community in this country. I reflected that Sheikh Fehmi’s mosque at Preston and his religious leadership have produced some great Australians, including Ahmed Fahour, the young and talented chief executive officer of one of Australia’s leading public companies, the National Australia Bank.

In the last census there were almost 100,000 Victorians practising the Muslim faith, originating from more than 60 countries, with diverse languages, cultural and ancestral backgrounds. I believe we need to do more to assure these people who look different from us that they have a place in our community and that they are welcome and safe in our homes, our parks, our schools and our shopping centres. We need to remember that not everyone who wears a hijab
is a terrorist or an extremist Muslim—just as not everyone who wears a cross is an extremist Christian. We need to remember that terrorists are in fact very rare in the Australian community.

It was with a heavy heart that yesterday I read page after page of the newspapers, reporting the arrest of the terrorist suspects, one of whom worshipped at the Preston mosque. The stories appear to portray those so far accused as already guilty—as a number of papers did by highlighting their names in bold. As the Attorney-General, Mr Ruddock, has said, those accused are entitled to a fair trial and a presumption of innocence unless proven otherwise through Australia’s judicial system. I am concerned that the Prime Minister is not aware of this. He was lecturing the Muslim community yesterday when he said on ABC radio:

I say to my fellow Australians who are Muslims, you are part of our community, we value you, we want you to fully participate in Australian life. We also want you to understand that people who have antisocial attitudes, people who support terrorism, are your enemies as much as they are the enemies of the rest of the Australian community.

Why could the Prime Minister not have said something like ‘I know that my fellow Australians—from all faiths and from all cultural backgrounds—condemn the actions of that small number among us who have antisocial attitudes and who support terrorism’?

Most Australians, whether they are Muslims, Christians, Jews, Buddhists or Hindus, know that these people are their enemies. Muslims do not need to be lectured about who their enemies are. They know them better than most of us. They are living with anxiety, frustration and concern, worrying about the reaction they will get if they are out in the street wearing a hijab or whether, with a Muslim name, they will get a job.

No-one disputes that we should be concerned about terrorism and vigilant about those in our community prepared to attack their fellow citizens. But we should also be concerned—and I stress this—about fear-mongering and the vilification of Muslims and other minority groups in the Australian community, which has always traded internationally on a sense of tolerance and a strong statement about our sense of multiculturalism.

If people believe that this is not happening already, they should stop for a moment and consider the situation of a former Muslim Labor candidate, Ed Husic. Ed Husic, to his credit, does not blame his election loss on his religion, but he was shocked by the attitudes he encountered, including in the federal seat of Greenway, when voters were told they should choose the Liberal candidate because she was a ‘good Christian’. Last month he gave a moving account to the Sydney Institute of waking up the day after the election to find that he ‘didn’t completely feel like a regular Aussie any more’. He said:

I actually felt—for the first time in my 34 years—that I had this brand stuck on my forehead. I might not have understood or appreciated what it was like to feel part of a sub-group that was treated differently—but I got a good sense of what it was like.

Yes, we have to fight terrorism. But we also have to remain vigilant that what happened in America after September 11 and what is happening in France at the moment—when Muslims are targeted indiscriminately—does not happen in Australia. That would be the face of the ugly Australian, unacceptable to all of us. (Time expired)

World Diabetes Day 2005

Mrs MOYLAN (Pearce) (4.44 pm)—On Monday it will be World Diabetes Day 2005. Because this House will not be in session on Monday, the World Diabetes Day theme was launched today by the Minister for Health and Ageing, the Hon. Tony Abbott. This
year, the theme for World Diabetes Day is ‘Diabetes and foot care: put feet first, prevent amputations’. Professor Martin Silink, the Australian president-elect of the International Diabetes Foundation, of which Australia is a member, attended the function in Parliament House, which was arranged by Diabetes Australia and was sponsored by Novo Nordisk. Together with the World Health Organisation, they have issued a call to action for health care decision-makers to take diabetes seriously as a chronic disease and to make a cost-effective investment now into care, education and prevention.

Approximately 1.5 million Australians are estimated to have diabetes, with only half of these being diagnosed. Those undiagnosed are at a very high risk of developing irreversible complications. Diabetes is Australia’s fastest growing chronic disease; in fact, many of our nation’s top endocrinologists maintain that diabetes is now a pandemic and that, internationally, it is one of the fastest growing, most serious chronic diseases that we are facing. The World Health Organisation has said that it surpasses AIDS as an international health problem.

The reason the theme of World Diabetes Day is ‘feet first’ is that diabetes is associated with nerve damage and poor circulation. Most people know it is associated with kidney failure, blindness and cardiovascular diseases but not so many people know that it poses a very serious risk to lower limbs due to poor circulation. These factors increase the risk of developing foot ulcers, serious foot problems and limb amputations. Mr Speaker, you and others might be surprised to know that, in Australia, there are at least 2,600 people who have lost a limb through diabetes related disease. Worldwide, a person loses a limb to diabetes every 30 seconds. In Australia, diabetes related disease is one of the most common causes of limb amputations. About half of those who have a leg amputated will have a subsequent amputation of the other leg.

Poorly treated or untreated foot ulcers can lead to amputation. The number of people with diabetes in Australia is increasing, which means that the number of people experiencing foot complications from diabetes will also increase. Without action, more amputations are very likely. Diabetes Australia estimates that the cost to the Australian community of diabetes related diseases runs at about $6 billion. It is a very high cost. It is important that we, as members of this House, convey to our constituencies the importance of testing for diabetes and, once it is diagnosed, the importance of proper management of the disease to help our communities avoid the worst of the complications. Many of the complications, particularly those to do with feet and limb amputations, can be avoided. It is a very important issue.

In finishing, I would like to acknowledge the work of my colleagues in this place and the other house: Dr Mal Washer, the member for Moore; the member for Blair; the member for Lyons, on the other side of the House; and Senator Guy Barnett, senator for Tasmania. About three years ago, we formed the Parliamentary Diabetes Support Group. Through this group, we have highlighted some of the very important issues relating to the chronic illness of diabetes in the community. I thank my colleagues for their commitment, and I thank all of those colleagues who have joined the Parliamentary Diabetes Support Group to make sure that this matter is understood in their constituencies and that they ensure they do not leave diabetes undiagnosed and untreated. Today is a very special occasion. We thank the Minister for Health and Ageing for his participation, and we hope that you will all again celebrate World Diabetes Day or draw attention to it on Monday. *(Time expired)*
Workplace Relations
Chifley Electorate

Mr PRICE (Chifley) (4.49 pm)—In this adjournment debate, I would like to talk a little about industrial relations. Like the Manager of Opposition Business and the Deputy Manager of Opposition Business, the honourable member for Grayndler, who is at the table, I did not get an opportunity to speak on the Workplace Relations Amendment (Work Choices) Bill 2005. It is unfortunate, because 62 members on the opposition side wished to participate in this debate, including the three Independent members of the House, who successfully did so.

I draw to the attention of the House that Mr Smith moved six amendments. However, the sixth amendment was ruled out of order. I will read out his proposal, which was to change the name of the bill to the ‘Workplace Relations Amendment (Cut Wages, Cut Conditions and Entitlements, No Fairness, No Work Choices) Bill 2005’. I am not trying to reflect on your decision in any way, Mr Speaker—that is not my habit—but the amendment was ruled out of order because it was ironical. I have to say that we on the opposition side find the title of the actual bill ironical because it is entitled Work Choices, as if workers, as a result of these changes, would have choices.

It will be my pleasure on Monday to go to the Mount Druitt TAFE, which is a huge educational institution in my electorate. I think it has up to 11,000 full-time equivalent students. I will have the honour of participating in the Mick Young Scholarship Trust. I thank the trustees and all those who, irrespective of politics, generously donate to the trust. The trust is dedicated to the honour of a distinguished parliamentarian. It gives out assistance to financially struggling students at Mount Druitt TAFE, and it has done so for a number of years. I really thank them.

I want to point out that the first people in the firing line of these workplace changes are the graduating class of 2005: the students at Tyndale high school, Evans High School, Doonside High School, Rooty Hill High School, Chifley College Senior Campus, St Marys Senior High School, Loyola Senior High School, Colyton High School and Bidwill. In my electorate, these will be in the firing line. I do not want for them a situation where they are not going to be able to get decent wages, where they will not be paid penalty rates, will not be paid overtime and will just grovel for a job. I want them to have a job, but I also want them to have their dignity, and it is not going to happen. In Sydney, mine is the electorate with the most unemployed, so I feel very keenly about issues concerning getting people into employment. These young people are going to be the first victims, and it just ain’t fair.

There will be some people who think they will not be affected. They have a job; they are doing well. They are struggling to pay mortgages and bring up families, but they will feel they are not affected by these changes. But, as soon as they change their job, they will be in the firing line too. It is not going to be a case of things happening overnight, but bit by bit each family, each young person, is going to be affected.

Mr Dennis Ferguson

Mr BRUCE SCOTT (Maranoa) (4.53 pm)—I rise this afternoon in the adjournment debate to highlight a clear policy failure, particularly related to the sex related crimes legislation in Queensland—an issue that is very close to my heart and one on which, just today, I have had my worst fears realised.

Late this morning I received the most sickening news that a convicted paedophile, Dennis Ferguson, who was believed to be living in several towns in the Maranoa elec-
torate, was appearing in the Brisbane Magistrates Court today charged with alleged sex offences against two girls under the age of 16 at Dalby. It is alleged that these offences took place yesterday, and he was arrested last night.

However, this most heinous crime could have been easily prevented had the Queensland state Labor government heeded my pleas and the pleas from the people of western Queensland to remove the alleged offender from all communities in western Queensland. My concerns and the concerns of the people of western Queensland are most certainly warranted, given Dennis Ferguson’s record. In 1988 he was convicted of kidnapping and sexually molesting three children in 1987. In handing down his sentence of 14 years jail, Justice Derrington said to Ferguson: ‘You planned and embarked upon a complex plan to have these young children in your power and under your influence for a period for your perverted sexual gratification.’

Whilst in prison, Mr Ferguson was identified as being suitable for the sex offender treatment program. However—and this is part of the problem—he refused to participate in any rehabilitation program. After his release from prison and given his record, when I discovered that he was living in the Maranoa electorate, I wrote to the Premier on behalf of the western Queensland community, seeking his urgent attention on the matter. I also expressed to the Premier the sentiment that the people of all country towns across western Queensland did not want Mr Ferguson relocated to any of their communities. Recidivist criminals have been located in these areas in the past with tragic consequences. Barry Hadlow was just one example of such reoffenders, when he was charged with the murder of a nine-year-old local girl in Roma in 1990.

The response I received from both the Premier and the Minister for Police and Corrective Services was that all sex offenders are strictly monitored by tough new legislation which the Labor government introduced and that the introduction of that legislation illustrates just how committed the government is to ensuring that all community members are safe from serious sex offenders.

Clearly the child protection laws of Queensland have failed. If they are not changed, they will continue to fail in the future. The current system of the national child protection offenders registry is a secretive system, not a preventative system, because section 69 of the act ensures that no information can be released as to the whereabouts of offenders.

Had the Premier of Queensland listened to the policies of the state opposition, the tragic events of yesterday would never have occurred. These policies include: (1) supporting the legislation proposed by the state Leader of the Opposition to introduce mandatory jail terms and compulsory rehabilitation programs for serious sexual offenders; (2) enabling serious sexual offenders who have been released from jail to participate in rehabilitation programs; (3) creating special residential accommodation areas for serious sexual offenders; (4) introducing a public notification system whereby organisations with children under their care—schools, day care centres etc—are notified of serious sexual offenders who reside within three kilometres of the organisation’s operations; (5) empowering law enforcement agencies, upon request, to release information on the location of serious sexual offenders who have not undertaken rehabilitation programs or are not participating in rehabilitation programs, that information to be available to the public; and (6) introducing severe penalties for anyone who misuses the information released to them about the location of serious sexual
offenders or threatens, intimidates or harasses serious sexual offenders.

We have the responsibility in this place as lawmakers—and, in Queensland, the parliament does as well—to protect the vulnerable, the children, and also to safeguard our communities. I call on the Labor government in Queensland to adopt the opposition’s recommendations, which would ensure that heinous crimes such as those of Dennis Ferguson can never be repeated again.

Whaling

Mr ALBANESE (Grayndler) (4.58 pm)—This week, Japanese whaling ships began their journey to slaughter whales in Australian waters. This comes at a time of strong legal advice from Australian and international experts that a case before the International Tribunal for the Law of the Sea has a very good chance of success. This tribunal has the right to prescribe provisional measures that could be granted within 14 days to stop the whale slaughter.

Diplomacy is important, and we are with the government there, but diplomacy has not worked. The Japanese plan to double their take this year and also to take fin whales, larger whales, for the first time in some while. Given that in 1999 the Howard government appealed to the International Tribunal for the Law of the Sea to stop Japan fishing for southern bluefin tuna, the Howard government must now take immediate legal action to stop the slaughter of these whales. The Minister for the Environment and Heritage criticised Labor for not taking the action. However, he must not be aware that ITLOS was only formed in 1996 and heard its first case in 1997. We need to do more than condemn Japan in meetings, important as that is; we need to take action in the real world to stop this slaughter.

House adjourned at 5.00 pm

NOTICES

The following notices were given:

Mr Johnson to move:
That this House:
(1) recognises that:
(a) a report from the United Nations Population Fund (UNFPA) State of World Population 2005— the Promise of Equality: Gender Equity, Reproductive Health and Millennium Development Goals was released on 12 October and that the theme of the report is that gender equality reduces poverty, and saves and improves lives;
(b) a major platform for achieving sustainable development is gender equality and the empowerment of women; and
(c) gender inequities in all countries limit the economic and social participation of women in the building of healthy and dynamic nations;
(2) encourages:
(a) the UNFPA to continue to work towards achieving gender equality; and
(b) the Government to continue to support the Millennium Development Goals because they have led to significant improvements in women’s health, safety and economic participation and increased their share in the benefits of strengthened economic growth; and
(3) recognises that these improvements have been achieved through culturally and religiously appropriate activities and has resulted in a reduction in the incidence of fistula, maternal and child mortality.

Mr Cadman to move:
That this House:
(1) condemns the persecution of all religious minorities around the world;
(2) requests that the Government of the Republic of Turkey, in the spirit of freedom and respect for human rights;
(a) return to the Christian minority foundations, as well as to individual Christian
Mr Kerr to move:

That this House:

(1) expresses concern that approximately eight Iraqi scientists have been held in detention in Iraq since the Coalition invasion in March 2003 despite the report of the Iraq Survey Group, accepted by the Governments of Australia, the UK and the US, finding that:

(a) no evidence that Iraq possessed weapons of mass destruction—the asserted basis for the Coalition invasion; and

(b) the scientists had not been engaged in the manufacture of biological, chemical or radiological weapons since 1991; and

(2) urges the Australian Government to call on those legally responsible for Camp Cropper to provide valid reasons for the continued detention of the scientists, or release them immediately, given that:

(a) the scientists have not been charged with any crime;

(b) the scientists are being held indefinitely in case they are wanted for questioning at some point in the future; and

(c) Australia bears some responsibility for the welfare of the prisoners due to its participation in the Coalition’s overthrow of the former Iraqi Government and its participation in weapons inspections.

Mrs Bronwyn Bishop to move:

That this House:

(1) recognises that Australia’s rates of inter-country adoption are significantly lower than leading western nations;

(2) notes that the Commonwealth should take the primary role in managing Australia’s external relations in inter-country adoptions;

(3) recognises the role that non-government organisations should have in managing inter-country adoptions in Australia; and

(4) notes that parents of children adopted from overseas have less access to benefits and entitlements than the rest of the community.

CHAMBER
Mr GEORGANAS (Hindmarsh) (9.30 am)—The fourth pharmacy agreement currently being finalised by the federal government has been the cause of some concern among pharmacists and full-line wholesalers. The risk that the agreement could lead to a lower level of services in supermarket pharmacies and force out of business full-line wholesalers, which supply less profitable medicines where and when they are needed, is of serious concern to consumers. It appears that this has been averted for the time being, and I hope that the agreement which appears to have been reached between the federal government and the Pharmacy Guild of Australia is honoured.

Members of the community have been very clear about their expectations on this matter. I circulated a petition to the community pharmacies within the electorate of Hindmarsh, calling on the federal government to negotiate an agreement which recognises the real value of community pharmacies. Soon after the completed petitions began coming back. So many were returned through Australia Post that I thought that they would need to increase their staff and I would need to increase my staff just to monitor it all. In all, more than 3,000 signatures were collected from members of the community. These members all want the level of service they get through their community pharmacies to continue. Saving taxpayers’ money is important but cutting things back in a new agreement would not do that. Without the care and attention of community pharmacies, it is likely that more people will end up in hospital because of medication mix-ups.

One service offered through community pharmacies that would in all likelihood not be offered by supermarket pharmacies is medicines review, which is done in the patient’s home. If a GP suspects that a patient might be finding it difficult to correctly use all of their medications, a pharmacist can go to that person’s home and check that everything is working as it should. In some cases it may be that there are too many medications to keep up with or that the prescription medicines are interacting with over-the-counter medicines that the GP was not aware of. It could be that the equipment used to administer medicines, such as a nebuliser, is old or broken. These consultations can take quite some time but the results for the patient are excellent, and they often lead to the prescribed medications being more effective.

I am very relieved, as I am sure members of the community will be, to hear that community pharmacies will not be driven out by supermarkets. I hope that our community pharmacies really are protected under this new agreement. I am glad that the government appears to have listened to the community’s wishes on this occasion and recognised the fundamental role that community pharmacies play in maintaining the day-to-day health of so many Australians.

Mr NEVILLE (Hinkler) (9.32 am)—I would like to tell the Main Committee today of the latest Saluting Their Service funding recipient, the inaugural Monto light horse re-enactment and reunion, which will take place next weekend, 18 to 20 November. The organising committee has received $5,990 in funding, which will be used to produce a special souvenir sup-

MAIN COMMITTEE
plement highlighting the event and to help purchase display cabinets to house light horse memorabilia from World War I and World War II. The cabinets will be on permanent show at the Monto Historic and Cultural Complex and will be of special significance to the local community.

Monto Shire has a particularly poignant connection with the Great War, with almost 800 local men and women seeing service in it in one form or another—quite remarkable for a small community. Their names will be included in the souvenir supplement, and that will have special significance for their families. I am sure the event will enjoy enormous success. Organisers have secured the involvement of light horse re-enactment troops from Rockhampton and Roma, and we hope half a dozen other troops will also come to Monto to participate. The weekend will provide a wonderful opportunity to show the activities and exercises practised in World War I, something most of us have never seen and will never see again. The organising committee has arranged activities and displays over the weekend. They include everything from a World War I display camp to historical military and heritage displays and a reunion dinner. Aside from honouring the memory of those who served our nation, the event has also generated interest in the reserves, the cadets, the Australian Defence Force recruiting unit and RSLs throughout the state. The local community is behind the event.

A division having been called in the House of Representatives—

Sitting suspended from 9.35 am to 9.50 am

Mr Neville—The local community is right behind the event with groups such as the Monto Shire Council, the RSL, the Monto and District Show Society and local schools getting involved with activities. As Monto’s federal member I am very fortunate in being able to attend the commemorative functions. I am certainly looking forward to seeing some of the light horse re-enactment events. I offer my congratulations to people who have put their heart and soul into organising the weekend: Harold ‘Spook’ Ware, Sel Mundt, Barbara Robinson and Edith Rutherford. By funding commemorative activities for veterans, we honour the actions of those who served our country, while retaining precious heritage. Our gestures can never fully compensate veterans for their experiences, but it is important that we do what we can and show that we care.

New South Wales: BreastScreen

Ms Hall (Shortland) (9.51 am)—Today I would like to raise the issue of the inability of women outside the target age group to obtain free breast screening from BreastScreen New South Wales. The target group includes women aged 50 to 69. Women outside this target group—age 40 to 49, and over 70—have the chance only one day every few months when they can ring for appointments. The phone rings off the hook, because the need is so great, and women tend to miss out. When they ring, they constantly get engaged signals and, when they get through, because of limited appointments they find appointments are already filled. There is an appointment day for ringing in in November and there is not another until next January.

It is very frustrating and worrying for women who miss out, and it causes a great deal of concern for the staff, who also understand how important it is for these women to have breast screening. One of my constituents who is in her 70s had an aunt who had been diagnosed with breast cancer when she was in her 80s, so she is very concerned that she is unable to access
free breast screening. She was waiting with bated breath for the day to arrive when she could ring and get an appointment. But, unfortunately, the phone was constantly engaged and, when she finally got through, all the appointments were filled. She said that it seemed like a lottery or luck of the draw, which is not good enough for such a serious issue.

Hunter BreastScreen have told women outside the target age group that they will no longer get a reminder letter and they cannot do anything about it. Women outside the target age group can only be given appointments that are available on the specific phone-in day, and that is a very important point—it is a situation of first in, best dressed. Because of my constituent’s concern and because she missed out in the lottery in gaining a precious appointment, she has no alternative but to go to a GP and be referred to a private facility for a mammogram, which will cost her $66. If there are any suspicious symptoms when she has this mammogram then it is more expensive for her to have a diagnostic mammogram because there is a gap in the Medicare rebate. Hunter BreastScreen said that they are very concerned about the situation and disagree with the policy. People at the front line are subjected to frustrated women. Today, I call on both the federal and state health ministers to act, to end this injustice and to make it possible for women outside the target age group to have breast screening.

Mr Nguyen Van Tuong

Mr JOHNSON (Ryan) (9.54 am)—I wish to speak in support of the letters written by the Prime Minister, the Minister for Foreign Affairs, my colleagues in the parliament and, of course, the Speaker of the House of Representatives to plead for clemency for the young Vietnamese-Australian who is due to be executed under Singapore law, Mr Nguyen Van. This young man had a very difficult upbringing. He and his family came from refugee camps in Thailand and have now made Australia their home. I do not want to suggest for a moment that I, speaking on behalf of the people of Ryan, or members of this parliament or the government support what he has done; indeed, the opposite is true. We highly condemn people, particularly young Australians, who are involved in the heinous crime of trafficking illicit drugs.

In 2002, at age 22, this young man was arrested at Changi Airport with almost 400 grams of pure heroin strapped to his body. In 2004 he was sentenced to die under Singapore’s mandatory death penalty. I want to associate myself very strongly with the actions of members of this parliament and the government to invite the President of Singapore to reconsider his previous decision and the Singapore government to reconsider its position. We very much respect Singapore’s laws. We know they make their position and policy on the trafficking of drugs very clear. They take a very harsh line which involves capital punishment. I think the overwhelming majority of Australians would not agree with that position, but, equally, as a nation and a government we support the right of every sovereign country to implement its policies, and Australia does not condone drug trafficking.

I want to say to young Australians around the country, particularly in my electorate of Ryan: please do not do drugs and please do not get involved with any groups or make any associations that might tempt you to become involved with the carriage of drugs. Drugs are an evil scourge on our society. They take away lives from families, and as a government we must do all we can to address this social issue. Regarding the government’s position on the drug abuse problem, since 1997 the government has spent over $1 billion in tackling drug abuse
under its Tough on Drugs policy. I thank all those in the Ryan electorate who have contacted me asking me to show my support for the government’s position.

Whitlam Government Dismissal

Mr MELHAM (Banks) (9.57 am)—Tomorrow marks the 30th anniversary of the dismissal of the Whitlam government. Gough Whitlam was elected as Australia’s 21st Prime Minister on 2 December 1972. His was the first Labor government for more than two decades. His government set out to change Australia through a wide-ranging reform program. Gough Whitlam’s term abruptly ended when his government was dismissed by the Governor-General on 11 November 1975. During the period of the Whitlam government, 507 pieces of legislation were passed. These included massive social reforms—from the Racial Discrimination Act, which meant so much for Aboriginal land rights, through to urban decentralisation and the protection of the Murray-Darling. His was an innovative government. His was a government which had a profound impact on my generation. His was a government which overturned the stultifying character of the Menzies era.

Yet the life of this government was suddenly ended by a man whom Gough only this week referred to as ‘contemptible’. I admire Gough enormously for his intellect, his commitment and his zeal. Amongst his many other passions, Gough remains committed to constitutional reform. In the interview I just quoted, Gough stated that his outrage at the time had more to do with the subversion of both the Constitution and the conventions of the Australian parliament. In his dishonourable decision to sack the government of the day, John Kerr ignored the parliament, for supply had yet to run out. On the New South Wales ALP web site Graham Freudenberg is quoted as saying:

But even Kerr, indeed, especially Kerr, could never have dared to act in that way without the underlying assumption that the ordinary rules, standards, decencies and conventions need not apply to Labor governments.

History demonstrates the distinction with which Gough conducted himself in 1975. Over the past three decades we have observed him as he continues to conduct himself with dignity; indeed, with grandeur. The contrast between the two men, Kerr and Whitlam, could not be more stark. After the political crisis of 1975, Kerr went downhill; Whitlam, on the other hand, has continued to grow and contribute to the society he helped create.

Gough remains committed to the core values of the Labor Party and is quick to point out where we might be deviating today. Indeed, I have regularly received phone calls initiated with the ominous, ‘Comrade’. Gough Whitlam plays a pivotal role in continuing to shape our great nation. His love of Australia and its people, his depth and breadth of knowledge, and his presence still resonate today as benchmarks for Australian political leaders.

The DEPUTY SPEAKER—Order! In accordance with sessional order 193 the time for members’ statements has concluded.

TAX LAWS AMENDMENT (SUPERANNUATION CONTRIBUTIONS SPLITTING) BILL 2005

Second Reading

Debate resumed from 9 November, on motion by Mr Brough:

That this bill be now read a second time.
Ms HALL (Shortland) (10.00 am)—I rise to speak on the Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005. I note that there has been a second reading speech made by the Minister for Revenue and Assistant Treasurer in the parliament, and I have a copy of that speech before me. In making a contribution to the debate, I move:

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

(1) notes that this legislation is yet another example of piecemeal and adhoc reform to our taxation and superannuation system; and

(2) calls on the Government to initiate fundamental reform of our superannuation system that deals with major issues such as;

(a) improving the incentive to save by reducing the tax burden on superannuation contributions particularly for middle income Australians who miss out on the co-contribution and surcharge tax abolition;

(b) lifting the compensation and coverage for fund members whose savings are lost as a result of theft and fraud and/or non-payment of entitlements;

(c) funding and consolidating the more than 5.4 million lost accounts containing $8.2 billion; and

(d) reducing the costly new paperwork, red tape burden and so-called choice on the financial services industry and employers”.

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

The DEPUTY SPEAKER (Hon. IR Causley)—I thank the member for Banks. I had not asked for that yet. The member for Shortland may like to make a contribution!

Ms HALL—The purpose of this bill’s regulations is to allow the splitting of superannuation contributions between a member and their spouse. An annual split model after the end of the financial year is allowed when the member can request contributions to their fund made in the previous year be split with their spouse. In effect, the split of contributions will take the form of a transfer, rollover or allotment of part of the member’s benefit to their spouse limited by reference to the amount of contributions made in the previous year. Funds would be able to offer contributions splitting on or after 1 January 2006. Funds do not have to offer the facility. It will apply only to accumulation funds, not defined benefit funds. It will allow single-income couples and low-income and high-income couples with access to low rate ETP thresholds to reasonable benefit limits in a similar way to dual-income families.

This was a government election commitment outlined in the 2004 election document and 2005-06 budget. It is the last of the government’s superannuation policy announcements to be presented to parliament. It is claimed in the government’s media release that it is ‘A super idea for families’, that ‘the retirement balances of women, low-income earners and non-working spouses will be in much better shape’ as a consequence and that families are given more choice—‘choice’ again—with broader accessibility to super to individuals outside the work force.

The reality of the outcome is far from what is set out in these superficial and grossly generalised claims. Not one new dollar of extra contributions will result. Given that income splitting would mean two sets of fees rather than one, logically individuals would not choose to split, except for tax purposes and the resulting increase in benefits for some individuals. Income splitting will double the existing threshold for the eligibility termination payment, the
ETP—the current maximum is $129,751—and the retirement benefit limit, the RBL, of $1,297,886; that is, 50 per cent lump sum and 50 per cent pension. There will be no 15 per cent exit tax applying to the ETP. The retirement benefit limit effectively limits tax concession benefits to the super system above which super accrued is taxed at the highest marginal income tax rate.

Given that only a tiny proportion of taxpayers reach $1.3 million, a figure which is indexed, in the savings there is an obvious incentive created for very-high-income earners to divert 99 per cent of contributions to a lower or nil-income earning spouse to double the RBL to $2.6 million. This is a retirement income accumulation that most Australians can only dream of. Likewise with the ETP threshold, there is an obvious incentive to divert contributions to a lower or nil-income earning spouse to double the ETP to $260,000. A greater number of middle- to high-income earners would be affected by this measure. Perversely, both measures substantially remove the incentive which requires many to convert the part of the lump sum above the ETP limit to an annuity pension. The 15 per cent tax is rebated in these circumstances. The estimated number of beneficiaries is not given, despite a costing being provided. It is certainly a policy that will overwhelmingly benefit high-income earners. Given that a cost estimate is provided, the estimated number of individuals and their income level should have been detailed.

There would certainly be some who, for personal value reasons, would access the splitting provision. It is not to apply to same sex couples. Splitting for couples who divorce is allowed in the same manner. Why should not members of defined benefit schemes be allowed to do the same in order to gain a tax advantage? The EM admits that there is a major cost increase for funds due to the new system design and complexity of administration. This is yet more red tape for the financial industry on top of the disastrous implementation of the FRS, a cost that will be borne by all super fund members. The one thing you can count on is that, despite its rhetoric, this government will increase red tape.

From an intergenerational finance perspective, the take-up and cost will rise significantly above the CPI because it will be driven by both growing balances and the spread of super as a consequence of Labor’s superannuation guarantee, the SG. Like so many government initiatives, the long-term cost implications are ignored. This is part of the Liberal government’s piecemeal and ad hoc approach to tax and superannuation reform. They fiddle at the edges, leaving fundamental issues unsolved. Labor is very concerned about the very generous new threshold RBL, created for very-high-income earners in respect of increasing super limits from $1.3 million to $2.6 million. We will revisit this issue as part of a comprehensive approach to tax and superannuation reform.

There are many unresolved major superannuation issues that this Liberal government refuses to address, such as improving the incentive to save by reducing the tax burden on superannuation contributions, particularly for middle-income Australians who missed out on the super co-contributions and surcharge tax abolition. The government could lift the compensation and coverage for fund members whose savings are lost as a result of theft or fraud and/or nonpayment of entitlements, something that members on this side of the House are constantly confronted with when their constituents come to see them. The government could also find and consolidate the more than 5.4 million lost accounts containing $8.2 billion—quite a significant amount—or reduce the costly new paperwork red tape of the Financial Services Re-
form Act and the so-called choice on the financial services industry and employers. Comprehensive reform is needed to allow higher retirement income opportunities for all Australians in a simple and safe superannuation system. Labor will not oppose these measures, but the chamber will have noticed that I moved a second reading amendment.

In conclusion, I would like to note that in the Senate yesterday this arrogant government denied the opposition and minor parties the benefit of a Senate committee review into this bill. The argument put was that the Senate committee has previously considered this bill. However, the current bill is of a radically different shape to that which was considered previously in the committee. Consequently, the government has just used its numbers to push through complex changes to important retirement income legislation without sufficient scrutiny in the Senate. This is a bad sign, it is a sign of things to come and it is what we have come to expect from this government.

Mrs Hull (Riverina) (10.12 am)—Today it gives me great pleasure to rise to speak in support of the Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005. This bill fulfils a 2004 election commitment of this government to allow people to split superannuation contributions with their spouse, no matter whether it is a female worker who is contributing to the superannuation with a stay-at-home dad or the opposite. This amendment will have a positive impact on the financial security of couples and families and allow them to plan for their future. It will apply to the vast majority of accumulation fund members, regardless of their income. That is the most important thing: it is not discriminatory against anybody. Everybody should be able to tap into this very significant and very welcome change. Retirement can seem a long way off for many of our young couples and, when dealing with the added financial pressures of raising a young family, retirement no doubt seems even further into the future. But these amendments before us today provide couples with the incentive and the ability to plan their retirement and plan it well.

Having a family is an enormous decision with financial issues that need to be taken into account. When I was doing the House of Representatives Standing Committee on Family and Community Affairs inquiry into child custody and the report Every picture tells a story, this was one continual source of significant concern to all members, because it is an area that does create tension and disagreement when there is a partnership breakdown. The mum may have been a stay-at-home mum and the dad may have worked and contributed to his fund. In the event of a partnership breakdown, the mum may be prevented from being able to benefit from the superannuation fund that her partner had. They have been partners throughout their relationship, they have been partners in parenting, they have shared a partnership in working arrangements—one partner may work longer hours for greater remuneration, thereby having access to greater input into superannuation funds—yet, if there is a partnership breakdown, this becomes a significant point of concern and creates much animosity during the settlement phase and in the way they intend to raise their children after the partnership breakdown.

This is primarily why I welcome the bill. It satisfies a lot of concerns and it will take an enormous amount of angst out of the family law system when there is partnership breakdown. Amongst those who have partnership breakdown for one reason or another, it always seems to be the economic factors that start to break down good, cohesive working relationships. The legislation provides couples with incentive and security in knowing that, in the unknown, each will have fairness and equity in the area of retirement planning and have access to super-
annuation. They will be able to plan their retirement and plan it well. As I have said, having a family is an enormous decision and these financial issues must be taken into account. Superannuation is a big issue, particularly for low-income earners—whereby the government provides a co-contribution—but it is also an issue for medium- to high-income earners who are in charge of their own lives.

For the primary carer, not only does taking time off from full-time employment to raise children impact on their short-term finances, it also impacts on the amount of superannuation they can accrue for their future. This includes women or men who choose to return to part-time work for a number of years whilst raising their children. It also impacts on their employer superannuation contributions and, in many cases, on their ability to make personal contributions. Currently, members of superannuation funds are unable to split their personal and employer contributions with their spouse. For many couples, the male spends his entire working life accruing superannuation from his employer and, if he chooses to do so, making his own contributions. Yet, for many women who take on the role of motherhood, their working life is disrupted, with the flow-on being that it affects their superannuation.

This also occurs with many men, as more and more are becoming stay-at-home fathers whilst their wives are out maybe working in the political scene or in very-high-powered careers. It also applies to those men who have determined that they will be a stay-at-home father. The amendment will assist women and men—as I said, the number of men who choose to take on part-time work while carrying out the role of full-time carer of their children is growing—in having a superannuation asset and retirement income of their own. Additionally, it will provide single income couples with access to two eligible termination payments, low rate thresholds and two RBLs—reasonable benefit limits—in the same way as is provided for a dual income family. So no-one is being discriminated against here. Everybody is being provided with choices as to the way in which they structure their workplace and working lives. It is a little bit like our industrial relations system. It provides people with choices as to the way in which they structure their lives and their working lives to bring about a better form and quality of life within their families.

Women are expected to be the group to benefit the most from these changes. However, as I have said, there will be an increasing number of men who will be able to benefit, and I welcome that. As I have also said, those people who take time out from full-time work to raise a family will be assisted by this amendment, but so too will many other groups with different circumstances.

At this point in time, women are the major carers in our society. They care for children, ageing parents, siblings and partners. As a result, their working lives are disrupted and, in many cases, their absence from the work force can result in a loss of skills. This can lead to a lower paid working position that then impacts on their superannuation. They will have very little or no superannuation at all if they have been a stay-at-home carer all of their working lives, and it is very difficult for them to get a base to start from when they re-enter the work force. This legislation will greatly assist all of those women in our society who have put the needs of families, and the caring responsibilities of children and family members and others, ahead of their own financial needs. This amendment also recognises the need for this change in the current superannuation laws.
Under these changes an annual split of contributions will be provided for. After the end of a financial year a member can request that contributions made in the previous year be split with their spouse, and contributions made on or after 1 January 2006 will be eligible to be split. But I emphasise that existing superannuation balances will not be eligible for splitting in the event that people—as they do, seeing a piece of new legislation come through—believe that their existing contributions or their existing superannuation balances will be able to be split. That will not be the case and nor should it be.

This government continues to actively encourage and promote the importance of planning for retirement and financial security. As Australians we are well aware that we can no longer rely on the taxpayer to assist us in retirement; that it is up to us: ‘If it is to be, it is up to me,’ as the old saying goes. So this is giving everybody every assistance to enable them to achieve what is to be there for their future and their benefit. The sooner we start planning financially for retirement the more comfortable retirement will be for us.

The bill will provide assistance to people in many different situations who can use these changes to consider their superannuation and available options. I welcome this amending legislation and I welcome the Minister for Revenue and Assistant Treasurer into the House. I have no doubt that the legislation will be welcomed by the couples and families throughout Australia who will now, thanks to this government—thanks to this minister, the Hon. Mal Brough—have the ability to plan for their financial security into the future. I commend the bill to the House.

Mr BROUGH (Longman—Minister for Revenue and Assistant Treasurer) (10.22 am)—I thank the member for Riverina for her wonderful contribution to the debate. The member for Shortland also made a contribution and I appreciate her doing so. We go through many phases in life, from our schooling to our work life, and most of us look at the other end somewhat reluctantly as we grow older and greyer—some of us lose a bit of hair—and with some trepidation as we consider what sort of a livelihood we are likely to have. Unfortunately, particularly for non-working individual spouses, often that trepidation grows for the simple reason that for many years they have had no way of accumulating their own retirement nest egg. Therefore, the uncertainty that comes with that is an added stress for many people.

The Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005 goes a long way to addressing that need in the wider community so that non-working spouses, predominantly, will be able to access a contribution and an income stream in retirement in their own right. There are huge financial benefits too because, unlike what you hear on many talkback radio shows about superannuation being taxed three times, it is actually the most concessional form of savings that you can have. I know that both sides of parliament agree with that. We sometimes disagree on how precisely it should be delivered, but the thrust of its being the most concessional is very significant.

So, in the context of this bill, allowing superannuation contribution splitting is a hugely positive thing for so many Australians. It means for couples that retire together they will have two incomes, two concessional streams to rely on. An unfortunate reality in our society is divorce, and those who find themselves alone will also not have to depend wholly on the welfare system but will be able to have money of their own through superannuation. Income splitting will help us achieve that.

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Of course it will not be mandatory for superannuation funds. In fact, this measure is reliant on superannuation funds—the master trusts, the industry funds and the corporations—actually making a conscious decision to take up and exercise this legislation and provide their members with the opportunity. I encourage them—I implore them—to do this at the earliest opportunity because it is about providing the most tax effective opportunities and real alternatives to retirement for so many Australians. Every Australian taxpayer under the age of 65 will be able to take advantage of this because we have removed the work test, and we are rightly proud of it.

It also builds upon the excellent work that the super co-contribution group has undertaken. The splitting and the removal of the work test as well as the removal of the superannuation surcharge are all very positive initiatives that this government has undertaken to help Australians to retire on the best nest egg that they can, to have the sort of retirement they both desire as opposed to one that is thrust upon them by a system which in the past was far too inflexible and basically said to people, ‘The income that you can derive from a pension should be sufficient.’ This is a wonderful piece of legislation that I am very proud to have brought to the House. I thank all members for supporting this legislation. I look forward to its quick passage and, most importantly, to its being embraced by the superannuation companies of Australia as they will now have the right to be able to offer splitting to the wider community.

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

Question agreed to.

Original question agreed to.

Bill read a second time.

Consideration in Detail

Mr ALBANESE (Grayndler) (10.26 am)—I just wish to express very briefly in consideration in detail of the Tax Laws Amendment (Superannuation Contributions Splitting) Bill 2005 some concern on behalf of many of my constituents that the superannuation contributions splitting does not apply to same-sex couples. The member for Riverina pointed out that the way that many families organise their workplace changes has changed substantially in recent times. Many stay-at-home men will benefit from this legislation as will stay-at-home women, but same-sex couples are excluded. Given that same-sex relationships are recognised in the terrorism bills coming before the parliament this afternoon, I think the government really needs to be consistent with this legislation. It made substantial fanfare in suggesting that it was going to achieve equality for same-sex couples when it came to superannuation. This is yet another example of what it has said in fact not being the case. It is a flaw in this legislation which I would ask the minister to consider rectifying when this bill gets to the Senate.

Ordered that the bill be reported to the House without amendment.
Debate resumed from 9 November, on motion by Mr McGauran:

That this bill be now read a second time.

upon which Mr Burke moved by way of amendment:

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

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

(1) notes that, for the bill to be effective in delivering more humane treatment of detainees, it is essential that the culture within the Department of Immigration, Multicultural and Indigenous Affairs needs to change;

(2) recognises that the independent reports produced by Mr Mick Palmer AO APM and by the Commonwealth Ombudsman, Prof. John McMillan, of an inquiry undertaken by Mr Neil Comrie AO APM, each conclude that the cultural problems became entrenched in the years leading up to 2001;

(3) condemns the refusal by the then Minister for Immigration and current Attorney-General to take responsibility for that culture;

(4) condemns the refusal by the current Minister for Immigration to take responsibility for the continuation of that culture;

(5) agrees with the finding of Mr Palmer’s report that “Reform must come from the top” and therefore calls on the Prime Minister to dismiss the Attorney-General and the Minister for Immigration;

(6) calls on the Government to take action to terminate the contracts which outsource the management of detention centres to Global Solutions Ltd; and

(7) calls on the Government to return the management of detention centres to the Commonwealth and locate all detention centres on Commonwealth Territory”.

Mr ALBANESE (Grayndler) (10.29 am)—I rise to speak in favour of the amendment of my colleague the member for Watson to the Migration and Ombudsman Legislation Amendment Bill 2005. Without amendment the bill resolves only some of the problems of this country’s now infamous immigration system. This bill is the government’s answer to improving the administration of its immigration policy, but it does not go to the core of the problem. As the member for Watson’s amendment outlines, the solution can be realised only by effecting a change of culture within the Department of Immigration and Multicultural and Indigenous Affairs. This bill does, however, aim to introduce greater transparency in relation to the processing of applications and it enables the Commonwealth Ombudsman to contact an immigration detainee where that person has not made a complaint to the Ombudsman. These are improvements to the existing model. Time limits on the processing of protection visa applications and extension of the Ombudsman’s powers to investigate detention centre private contractors are consistent with Labor Party policy. However, this bill does not go far enough.

This bill does not address many of the acknowledged problems identified through the Palmer report. It does not address the dire need for the development of a national missing persons policy, nor does it implement a mechanism to review, within 24 hours, every decision to detain, as recommended by the government’s own inquiry. Cultural problems within the department identified by the Palmer report, which could be addressed here, are not considered in the government’s bill. We now know that Ms Vivian Solon could have confirmed her identity
if the DIMIA official had given her the opportunity. Instead, they stuck to their disgraceful presumption that she was an illegal sex worker.

We now know that the current Privacy Act exceptions are flexible enough for the department to have permitted the release of Ms Cornelia Rau’s information legally, but DIMIA officials—I quote from the report—‘asked the wrong questions’. This bill does not even require the DIMIA official overseeing a case to make compulsory checks of the missing persons database or other currently available databases. The current shambles in the Department of Immigration and Multicultural and Indigenous Affairs is indication enough that much more needs to be done before we see an end to unlawful detentions and deportations, including the disgraceful deportation of our own citizens. The Senate inquiry into the Migration Act has revealed 222 cases of potentially wrongful detentions, 222 cases where it appears that people who were lawfully in Australia had been put into immigration detention and kept there, sometimes for many years.

The Senate committee have met to consider the mess that is the immigration department. Just weeks ago they learnt that one of the more than 200 people who may have been wrongfully held in immigration detention remains locked up at Baxter detention centre. The department also failed to reveal that two of those 200-plus people who had been wrongfully detained were detained for between five and seven years. Again and again this department fails. It cannot stay out of the limelight this year and for all the wrong reasons. The department was described in the Comrie report in the following way: failure, catastrophic, inaccurate assumptions, dehumanised, defying commonsense and decency. These are not overstatements. Terms such as these accurately reflect the culture, countless bungles and chaos of this department.

Just consider the case of Ian and Janie Whang of my electorate of Grayndler. The report states that the department engages in ‘defying commonsense and decency’. Ian and Janie know all about that. They were removed from their classrooms in Stamore Public School by DIMIA officials on 8 March 2005. Without prior notice to the education department, without the presence of a legal guardian, they were picked up and taken to Villawood detention centre. The report outlines the ‘failure and inaccurate assumptions’. Ian and Janie know all about that too. After being taken to Villawood in March, they were released over four months later in July 2005 after it was revealed that it was a departmental bungle that put them in there in the first place. The report calls the department’s actions ‘catastrophic’.

Every child at Stanmore Public School has grown up with Ian and Janie Whang. In fact, the whole community around that school has been affected by that catastrophic engagement with DIMIA. Some 2,410 members of the local community signed the petition that I tabled in this House in opposition to Ian and Janie’s removal, and I applaud each person who signed that petition for standing up against this injustice. Two kids wrongfully held in detention for over four months is appalling in Australia in 2005. And finally the report says the department is ‘dehumanised’. Once again, Ian and Janie know all too well about this aspect of the department.

Ian, who is 11 years old, went to Stanmore Public School from kindergarten right through. He witnessed other detainees trying to commit suicide during his detention at Villawood. In fact, he witnessed three separate incidents of detainees trying to end their lives. These are things no 11-year-old should ever have to see. They are memories no child should have to live...
with. I have met with Ian and Janie and I can assure members of the House that they are deeply affected by the reality of DIMIA’s bungling.

The injustices committed against Ian and Janie, and those suffered by so many detainees under the Ruddock/Vanstone DIMIA system, come from a culture of assumption and denial. I do not blame the bureaucrats; I blame the ministers at the top, who have promoted a culture that has led people to believe that that is what the government wants imposed on people—a culture that is prepared to use fear in the community in order to secure political gain.

Senator Vanstone even continued to deny responsibility for Ian and Janie’s wrongful detention when they were finally released four months later. On the day that they were released from Villawood, Senator Vanstone said that they had initially been taken there at the request of their mother. That was simply not true. It was not until the evening news programs had run their course that the minister finally acknowledged that Ian and Janie were not unlawful citizens and that they had been detained in error for four months. That was a claim that a mother had sought for her kids to be taken to Villawood and locked up for four months!

But again, there is form on this. Philip Ruddock, when he was minister, said that mothers and fathers threw their kids overboard. The government has form in dehumanising people—and it comes from the top. Ian and Janie were denied their freedom and education due to another departmental mistake, and this is a mistake they will live with for the rest of their lives.

Senator Vanstone has made announcements about how much money the government will be spending to improve the way the department is run and to improve facilities for detainees. Those changes are welcome, and many are long overdue. Yet many of these changes have only happened as result of the tragic bungles we have heard about this year. My colleague the member for Watson, in his speech, spoke about the conditions that still apply in Villawood. Senator Vanstone made much about taking along pliers and cutting razor wire at Villawood. Well, I will tell you what happened to me when, as a member of the Australian parliament, I went with an ABC TV crew to Villawood. They had security come and seek to stop my entry and access to that detention centre. That is the culture that exists in DIMIA from the top down as result of this government’s political manipulation.

Ultimately, it takes much more than words and money to fix a department and a system that is in this much strife. It takes a change of heart—but you first have to find people with a heart before you can change it. And it takes a change of guard. There are many people in this government—one of them is the member for Cook, sitting opposite—in whom I would have faith as being prepared to recognise human rights. I applaud the fact that there are people in this government who have stood up in their party room against the way that Ministers Vanstone and Ruddock have continued to have bungle after bungle.

I must say it is very offensive to see the former minister wearing his Amnesty International badge in the parliament. What an absolute disgrace that is! The question has to be asked: does this government have any understanding of the damage they are inflicting upon the lives of these detainees? There is now a long list of 222 victims of this department—names like Rau, Solon and Hwang, which are known around the nation.

The government must take the morally and economically responsible step of returning the management of detention centres to the Commonwealth and locating all detention centres on Commonwealth territory. While the number of detainees has decreased, the outsourcing of
detention centre management to Global Solutions Ltd has actually increased the cost to the taxpayer. However, more importantly, the moral cost of outsourcing is simply too high. The Hamberger report was damning. The conditions in which those five detainees were transported by a private operator between the Maribyrnong and Baxter detention centres makes me sick to the stomach. They were driven through the desert in the back of a van with no air-conditioner, no food, no light, no water, no medication and no access to a toilet. This in Australia in 2005!

The minister’s response to the Hamberger report was to renegotiate these private contracts. The DIMIA culture of denial and cover-up struck again. Labor says: terminate these contracts and restore dignity to the lives of detainees. In continuing to outsource management to GSL the minister is denying the damage being inflicted on the lives of detainees. These private contracts are a barrier to a more humane treatment of detainees. Senator Vanstone’s response was to arrogantly say, ‘I’m still standing.’ Could there be a more insensitive, unsympathetic way of sending a message to these mistreated members of our society that this government just does not give a stuff, that it just could not care less? You have only to look at the way in which detainees are treated with regard to their mental health to see the full extent of the minister’s lack of compassion. The submission of the Royal Australian and New Zealand College of Psychiatrists to the Senate inquiry said:

Many detainees—in particular those seeking asylum in Australia have suffered human rights abuses, including torture, in their countries of origin; family members may have disappeared or been murdered, and many are separated from their loved ones as well as their homes and countries ...

And let us not forget that the overwhelming majority of these people were later found to be genuine refugees. Yet we still hear no apologies from the minister for the 222 cases of potentially wrongful detention. We see no acceptance of responsibility by the minister. Senator Vanstone continues to dodge and deflect criticism of her management of this department. Where does the buck stop? Rather than perpetuating this culture of denial and assumption, Senator Vanstone and the Prime Minister need to tell the truth. They need to come clean about where the catastrophic management and culture described in the Comrie report comes from. It is clear. I suggest they read Dark Victory, by David Marr and Marian Wilkinson. That is a magnificent expose of the culture imposed by this government, in being prepared to play the race card in order to get across the line in a close election.

But they do not have to go that far, because the government’s own reports say it. The Comrie report makes it clear that this culture comes from the top. This culture of fear is created at and perpetuated from the top of the Howard government, which we saw most graphically when the Tampa sailed into Australian waters. During that time we saw the terrorism card played. We heard that kids were thrown overboard by their parents. We heard that these were not real refugees—they were here to cause harm to Australia. These people, most of whom were fleeing the Saddam Hussein and Taliban regimes—which were evil enough for us to send Australian men and women to war to fight—were sent to the middle of the desert, and worse still we excised our borders and sent people to Nauru.

Mr Burke interjecting—

Mr ALBANESE—Of course. As my colleague the member for Watson said, not only were we prepared to declare war on Saddam Hussein and the Taliban but, prior to that, we had declared war on the victims of those regimes. Remember the Prime Minister saying, ‘Not one of
them will set foot in this country’? Well, many of them are here now because they were refu-
gees and they were legitimate asylum seekers, and they will make a great contribution to this
nation.

The government needs to show responsibility. I think the junior minister in this portfolio
said it best. When the shadow immigration minister, the member for Watson, who has taken
up these human rights issues with passionate defence, asked a question about the flawed cul-
ture within the immigration department, Minister Cobb said of the department—and the tim-
ing of what he said was interesting:

... this department, since 2001, have done the job the government asked them to do ...

You bet it has. Since 2001 the government has chosen to go down this road and the inevitable
consequences have been suffered by Cornelia Rau, Ian and Janey Hwang, Vivian Solon and
the 222 wrongfully detained people. It is inevitable that these things will happen in an oppres-
sive, harsh regime which constantly has one eye on creating fear in the community in order to
secure political advantage. It is about time it stopped. It is about time that the minister actually
took responsibility, as required under our Westminster system, for the actions of the depart-
ment.

If the minister had any integrity whatsoever, she would look at the report that used terms
such as ‘failed’, ‘catastrophic’ and ‘dehumanised’ to describe the department that she ran and
she would ring the former minister, Mr Ruddock, and say, ‘Let’s hold a press conference.’
And before he walked into that press conference the former minister would take off that little
silver badge that offends so many people. I have been an active member of Amnesty Interna-
tional since before I became an MP—since my days in Young Labor, which was some time
ago. I wrote to Amnesty and resigned because I do not think having Minister Ruddock as a
member of a human rights organisation should be tolerated. I understand the difficulty that the
organisation has in dealing with the government and I respect the fact that many decent peo-
ple, including the conveners in this parliament, the members for Reid and Cook, are fair
dinkum about the issues they see as important. Minister Ruddock and Minister Vanstone
should hold that press conference and say, ‘We accept responsibility. We resign because at the
end of the day the culture of hate, fear and dehumanisation that has led to this catastrophe’—
in the report’s own words—‘is our responsibility.’ I commend the amendment to the House.

A division having been called in the House of Representatives—

Sitting suspended from 10.49 am to 11.35 am

Mr BAIRD (Cook) (11.35 am)—It is my pleasure to support the Migration and Ombuds-
man Legislation Amendment Bill 2005. I commend the people who are here today from the
Department of Immigration and Multicultural and Indigenous Affairs for their contribution in
the preparation of this legislation. The legislation is a significant step forward and I am
pleased with the progress that has been made. Immigration departments are always subject to
criticism. In my youth, when I was at university, I applied for a part-time job as a psychologist
with the immigration department to look at some problems they were having in that depart-
ment. There were concerns at that stage about the way social workers were treating people
who came in to see them about issues. So this was an issue more than 30 years ago.

The whole approach to mandatory detention was introduced by Senator Bolkus, as I recall,
in the nineties. The changes that are made in this bill are adjusting to the implications of man-
datory sentencing. There are no changes to the government’s general approach to immigration in this bill, but it certainly make some considerable improvements to the processing of those who are held in detention as well as other matters. It is very encouraging to see the changes that have been made to date in immigration. The advice I have had is that, as at October, which is the latest date I have, there were no children in detention. I regard that as a significant step forward. I commend the people from DIMIA for their work to make this happen.

As at 17 June 2005, of the 149 long-term detainees who had been detained for more than two years, 90 have been released from immigration detention centres, eight are awaiting character security clearances before being referred back to the Minister for Immigration and Multicultural and Indigenous Affairs, 28 are currently with the immigration minister and 23 are currently having submissions prepared to be referred to the minister. That is a fantastic result. I am very pleased to see that long-term detainees are being provided with visas and being removed. Their cases are being handled speedily. To my mind, the most significant area where problems occurred was in the long-term detention of individuals in detention centres. I remember the first discussion I had with Sev Ozdowski, the Human Rights Commissioner, some years ago. He said that people can stand it in detention centres for up to about six months and after that problems occur. I am sure all members of the House would agree that those who are genuine asylum seekers should be treated humanely and processed quickly and effectively. If they do not meet the cut, nobody is going to say, ‘Let’s remove them; let’s get them back to the country from which they came,’ but if they are genuine we should not make them wait for years in detention centres to be processed and then make the decision. We should make the decision within an appropriate time frame. So we are very pleased to see that the changes have been made.

This legislation deals with those changes to the time frame. The 90-day period applies to the processing of primary decisions and to the RRT. At 23 June 2005, there were 30 decisions in total, and eight had taken over 90 days. As at September 2005, 17 decisions in total were made, with zero over 90 days. Again, that is a great result from DIMIA. In terms of decisions involving persons in the community, that figure has dropped from 953 to 523. Again, it is too high; nevertheless, it is a significant improvement. The time taken to process cases in the RRT has also dropped. I am very pleased with that. The TPV case load has dropped from 3,396 in June 2005 to 919 as at September. Some people have been granted a further TPV, 126 have been refused and 37 withdrew. This is what we would like to see: rapid processing of people. Detention centres are difficult environments. If a person is a genuine asylum seeker, let us move their application along quickly.

My interest in the issue of length of detention occurred when I was a member of the human rights committee. In 2000 the committee undertook a study tour looking at detention centres right around Australia and wrote a report. We went to Curtin, Port Hedland, Perth, Woomera, Maribyrnong and Villawood. I was very concerned about the long-term impact detention was having on people. We discussed at length what could be achieved. That is why in the original report in 2000 we recommended a three-month time limit for the processing of applications. It has taken a fair while to see that implemented in legislation in 2005, but it has been achieved. We have achieved these significant changes.

Following my time on that committee and the presentation of those recommendations, I visited five countries in Europe to look at what they were doing. I produced a report on those
five countries. The EU countries were all pretty similar in their processing of applicants. Sweden and the UK stood out. I had a very good program set up by the high commissioner and I was able to see exactly what was happening there. I was particularly attracted to the two plus four rule, which had been brought in, just before my arrival in the UK, in 2001. The objective of the two plus four rule—two months for primary decisions and four months for the RRT—was to cut 65 per cent of cases in that year, and then go up five per cent each year until they reached zero.

I commend the Prime Minister. We discussed at length with him what the UK was doing. He was attracted to this program and said, ‘Let’s not have it as an objective; let’s do it in legislation.’ I have to say that I was extremely pleased by that change. In terms of this critical aspect, we have changed the whole nature of detention. We have the time parameters, which mean that DIMIA is required to meet those objectives.

There are certainly going to be cases where people will not be able to meet those objectives, and that is set out in the legislation. It provides for situations where there are problems establishing identity. Where it is true that a person has thrown their passport and identity papers away, that is then their responsibility and it takes longer to process their application. It is a warning to those people who do that that it will take a lot longer to establish their identity. It is much better that they put it all on the table so that they can say, ‘This is my identity,’ and then we can process things quickly.

There are also the problems of security. If there is any suggestion that security is compromised by any of these people, any questions or health issues, then obviously the process needs to be delayed. This legislation provides that, where the department or the RRT exceeds the 90-day requirement for the primary decision, the department writes to the minister and the RRT then writes a report for the minister on the reasons for the delay and the minister tables it in the House, setting out those reasons. So there are going to be good and proper reasons for the delay, but this does provide accountability and transparency as to why delays are occurring. That is a very significant part of it, and I want to commend the department and the minister on the way these changes have been implemented. We are already seeing the results. We look forward to that change, because people do go into a depressive state when they are locked away and do not know what is happening to them. We are changing that through this legislation.

The other significant part of this legislation is the Ombudsman requirement. We are proposing a change to the act to enable the Ombudsman to specifically review the immigration cases, so he becomes the Immigration Ombudsman as well as the Ombudsman generally. He has the ability to investigate cases when they are brought to him, and this is what we need: some outside accountability. No department is perfect. It is always going to be an issue when you are dealing with that number of applications. People are people, and there are issues relating to personal development.

I know that Sweden is regarded as the most humanitarian of all the countries processing asylum seekers, and I have spoken to the most senior person in charge of its program. I asked, ‘What’s your biggest challenge?’ He said: ‘My biggest challenge is cynicism. You see people rorting the programs and you have to hold yourself back to recognise that there are a lot of people who are genuinely seeking asylum.’ He said you must recognise that there are going to be people who rort the system, who try to abuse it, but, nevertheless, you must stay on track to

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service those who are in genuine need. It is always a challenge for those who are working day by day with individual, personal cases. I commend the department for a lot of the fantastic work that they do. When I follow through on cases, I find that I am assisted extremely well.

There was some suggestion about whether cases should be brought to an independent judge, as they do in Canada and the USA. It was decided by the Prime Minister that it would be appropriate to go the route of the Ombudsman. Again, this is a significant way forward. Given the cases of Cornelia Rau and Vivian Young, we needed someone outside the department to whom cases can be brought when there is concern about the way they have been handled. The Ombudsman might review a case and decide that what the department has done is perfectly legitimate, but it provides accountability and transparency and it provides a body to which people can go if they feel that there is abuse of power within DIMIA. I certainly think this is an excellent way forward.

I noticed on a visit to the US and Canada early this year that they have this independence in taking applicants for asylum to a judge. We are doing this for the department’s processing by allowing the Ombudsman to review these cases. It is also interesting to note that not only do the UK and European countries have time limits but, I discovered, the US has requirements that people be interviewed after 48 hours. After they have been interviewed, they have to appear before a judge between 30 and 60 days, and a hearing is usually held within 45 days and a decision must be given within 180 days. That is in the USA, which is meant to be tougher than some other countries. In Canada, the initial cases have to be completed within 28 days. The cases go to a quasijudicial hearing. The time for processing in total, even with delays, is a maximum of 14 months. Canada is also seen as being very humanitarian in the way it treats applicants for asylum.

Certainly the importance of time limits, the importance of transparency and the importance of independent judgment are significant. We have had cases come to our attention because we have not had that independence of judgment, we have not had the transparency and we have not had time limits. As we know, one of our people was in detention for seven years, and I have seen a whole number who have been in detention for five years. We have to make up our minds: either we say that they are not genuine asylum seekers, if we have good grounds on which to say this, and send them back or we say, ‘Welcome to this country; you are a genuine asylum seeker.’

You can imagine the difference in attitude of a new citizen of this country knowing where they are going to be if their cases can be processed within an appropriate time frame of, say, three months. Take the case of somebody who comes—and we have had many cases like this—out of Afghanistan fleeing the Taliban or out of Iraq fleeing Saddam Hussein’s regime. Having just been to Iraq, I have seen the way the Shiites, Sunnis and Kurds interact. This is a country in which many people have been oppressed. If they come out here and we say to them within a short period of time, ‘We regard you as a genuine asylum seeker; welcome to our country and we are going to give you a visa, we are processing it,’ imagine the difference in their contribution to this country and the type of citizen that will they be in the future.

The member for Pearce, with whom I have been closely involved on this issue, and I have shared many cases. I follow up the cases that I have been involved in where the people are now out in the community and have been given, in most cases, permanent residency. All these people are all at work. They are all contributing in a significant way—they are wonderful

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people and great additions to this country. I just wish we had had some of these provisions earlier. If we had had some of these time limits, we would not have had the delays that we have seen. We would not have had people in detention for five, six or seven years; rather, we would have had them processed in an appropriate time frame. So these are the most important aspects of the bill.

The final part of the bill relates to the problems with the Cornelia Rau case, a case where the authorities were not able to release the appropriate identifiers for a variety of reasons. The amendments in the bill allow the secretary of the department to authorise the release of a person’s identifying information to the public in order to identify or locate the person in connection with the administration of the Migration Act.

The Palmer inquiry’s pretty strong recommendations pointed to some of the issues that we need to address. I feel confident that, as we have been through the review, which has highlighted the weaknesses, we have addressed those weaknesses. I believe that the changes that have been made have moved us a significant step forward. There are always going to be issues, and there will always be problems that emerge, but at least we have in place some of the checks and balances. If a primary decision on a person takes longer than 30 days, then a report has got to be written as to why. If a case takes longer in the RRT, a report has to be released as to why, and there have to be good and valid reasons why that is the case. The cases cannot just sit there, as was the case in those that were brought to me where they would sit there for month upon month, without the people being told what was going on and without their knowing how long the process was going to take in all.

The final aspect of the legislation concerns the Commonwealth Ombudsman, to whom people from within the community can take their concerns and say, ‘These are my concerns; I do not believe this case is being handled effectively, accurately or with integrity,’ and the Ombudsman can then do the review as to whether it is appropriate. I am sure that in many of the decided cases DIMIA is doing the right thing, but it does provide the necessary accountability. All of us in this place, in public administration, have to ensure that we constantly look at those principles of integrity of the system, accountability and transparency, especially when we are dealing with people’s lives. We have seen the results of people being too long in detention. We know that this is not academic stuff but real people, real cases. This is a significant step forward. I commend our officers from DIMIA who have been involved in these changes. I commend the minister and certainly the Prime Minister for the changes that have been made.

Ms BURKE (Chisholm) (11.55 am)—I want to start with commending the members for Cook, Pearce and Kooyong, who is not here today, for the tremendous efforts in how they have moved on this debate. I think they need to be personally congratulated for standing up in their party room and in the press and accepting criticism and flak from within. It is a fairly brave move within our political system nowadays. I want to say congratulations.

I agree that the Migration and Ombudsman Legislation Amendment Bill 2005 does move things on but, sadly, not far enough. Sadly, it has not changed the culture within the Department of Immigration and Multicultural and Indigenous Affairs. It has not righted the wrongs that have been inflicted through that department. I do not take a swipe at the public servants within that department. They are living under a culture, a regime, from the top, from those at the cabinet table down, including the Minister for Immigration and Multicultural and Indigenous Affairs. Until the minister and the previous minister take some personal responsibility
for the atrocities that have been inflicted on the poor souls seeking asylum in this country, nothing will change. There can be no effective change until the two ministers responsible acknowledge the appalling treatment of these people who are seeking our help in times of crisis and need. It does not matter how many cups we order. My personal favourite is the big jigsaw puzzle. I really want to see the foam jigsaw puzzle with the slogan 'Our business is people' and the money spent on that. Until there is a culture of change from the minister and those at the cabinet table down, there will be no justice for asylum seekers in this country.

The bill before us today does introduce a vital measure, which the member for Cook has spoken about: the 90-day processing time limit. If there are not reviews after 90 days, as the Labor Party has moved in its policy direction, then those 90 days are fairly meaningless. It is a good thing because so many people out there are living in never-never land—they have no idea. I am sure that all the members around the table today can account for the constant anguish of people in and out of their offices trying desperately to get some sort of answer out of the department. My staff member Louise would spend most of her life, literally, on the phone trying to find out where someone’s application is at and whether it has been done. If we find that it is on the minister’s desk, we say very quietly and very kindly to the individual involved, ‘Just hold your breath because it can sit there for a very, very long time and there is absolutely nothing we can do to progress it.’ After two years you would reckon you might have got an answer from somewhere. But people sit there sweating, waiting and hoping. The answer that it is sitting on the minister’s desk does nothing to console those individuals living in limbo.

The permit disclosure of identifying information to individuals is, again, welcomed. But, sadly, that was not needed by DIMIA in either Cornelia Rau’s case or Vivian Solon’s case. Palmer and then Comrie went to great lengths to discover the tragic inability of the department to actually spell, to actually go into their computers and find a name. There were faults all over the system, particularly with respect to the fact that we do not have a national missing persons database. It astounds me that in this day and age we do not have a national missing persons database. You could probably have gotten something from Interpol quicker than from the Australian police.

In Cornelia Rau’s case, there was a woman with a severe mental illness. Dealing with mental illness, as probably most of us as members of parliament who deal with a lot of people with mental illness who approach our offices know, is a difficult and tricky task. It is not something you do easily or lightly. None of us is an expert. I assume nobody in DIMIA or in the jail system is an expert, tragically. But you could probably after a while have worked out that there was something amiss with this individual. It should not have taken as long as it did.

In Vivian Solon’s case, she gave her name and said she was an Australian citizen, but they did not check it. It is confounding and beyond belief. I think the more tragic part is that, at the end of the day, it will be the public servants who are going to wear the blame for that and not the minister. Ministerial accountability seems to have gone out the door. This bill enables the Ombudsman to contact an immigration detainee when that person has not made a complaint to the Ombudsman and that is a good move forward. It gives people the ability to have some notion that their complaints are being heard and are being taken legitimately and validly.

Again, it is one of those difficult situations. A lot of people who are waiting for outcomes do not want to go to anyone in case it jeopardises their outcome. They are nervous; they are ill.
at ease. Some time ago a leading academic from one of our universities spoke to me about one of her students who is on a TPV. He had recently been called into a DIMIA interview. He had been told that he could not explain what the interview was about and he could not speak to anybody about what went on at the interview, so he dutifully has not told anybody. But he was so traumatised for a week after that interview that he could not attend class and he could not go to work, so everybody figured that something horrendous had gone on, but it could not be talked about.

The academic concerned was so worried about jeopardising his case, she would not even tell me his name. We kept having this circular conversation: I would say, ‘Unless you tell me his name, I can’t ring up and find out,’ and she would reply, ‘But if I tell you his name, it may jeopardise his case.’ This is the horrendous situation that we are placing these people in. Eventually I did find out who the individual was—but then, when I rang DIMIA, they could not explain to me why he had been called to an interview and what it was all about. I was trying to work out if he had been called by DIMIA or ASIO in this case but, for the sake of that individual’s sanity, we left it. They are happy that if something untoward occurs they can come back to my office at the drop of a hat. But it was traumatising. This individual is trying to rebuild his life in this country. He is trying to study; he is trying to add to his community and the stress and strain of this is not needed. If there is something untoward or unwarranted about him, why not tell him? Why not deal with it? Do not leave people in this limbo situation; it is barbaric and cruel. The Bills Digest states:

The question raised by this Bill is to what extent these proposed amendments address the acknowledged problems with DIMIA’s administration of immigration detention identified by the Palmer report. This Bill is not a full response. Areas not yet addressed include:

- the development of a national missing persons policy ... and
- the implementation of a review within 24 hours of every decision to detain ...

I think those two points are the basic minimum requirements needed to go forward to make the system work more effectively. I also support the amendment moved by the member for Watson because it moves the whole process towards something reasonable and actually addresses the problems identified in the Palmer and Comrie reports and now by the Ombudsman, John McMillan. Without these things taking place we will stagnate and these people will have their claims left unanswered.

As we discovered earlier this year in question time, since 2001 the department has been doing the job the government has asked it to do. I am not sure whether poor John Cobb, the minister at the time, really expected that he would get himself into trouble for being so honest during question time but he said:

... the fact that this department, since 2001, have done the job that the government asked them to do ...

So that is where the responsibility lies. That is where the responsibilities of the criticisms from the Palmer report lie. I thought the Radio National program interview between Fran Kelly and Michelle Grattan was probably some of the most compelling radio I have heard on this. I will not go through it all because I know time is limited. A report by Michelle Grattan at the time the Palmer report was handed down in July 2005 stated:

The Palmer inquiry attacks the “deafness” of the Immigration Department to concerns about its practices voiced repeatedly by a range of stakeholders, and condemns its “assumption culture” sometimes bordering on denial.
I always thought that if you assume you make an ass of yourself, but the assumption culture is there and it has not been addressed. The article continued:

In a comprehensive slating of the way the department viewed its world and its work, Mr Palmer said it assumed “depression is simply a normal part of detention life”.

How tragic—depression is simply a normal part of detention!

Criticism of processes was put down to critics not understanding the complexities or having their own agendas.

“The case of Cornelia Rau was not the ‘one in one hundred year flood’ and could have, and should have, been resolved much earlier,” it said.

The Rau case showed “not so much incompetent management as an absence of management” over 10 months—a finding with wide and serious implications for a “front-line” policy department.

“The DIMIA management approach to the complexities of implementing immigration detention policy is ‘process rich and outcomes poor’,” Mr Palmer said.

The serious problems with handling cases “stem from a deep-seated culture and attitudes and a failure of executive leadership in the compliance and detention areas”.

This bill will go a little way towards addressing some of those deep-seated flaws, but it is not going to resolve many of them. Putting logos on cups is not going to resolve them either.

Unless we have change from the top, with the two ministers accepting responsibility and changing the direction of government overall, the culture in the department will not change. And it needs to change, because decent human beings working in the department are feeling under the gun.

This bill does not address the plight of thousands of community based asylum seekers—something which I have been pushing for quite a while now. I have put a motion before the House but, sadly, it has not been brought on for debate. Unless we do something about abolishing the 45-day rule—which is doing nothing and achieving nothing—we are going to have thousands of community based asylum seekers living on charity. These people have no work rights and no ability to access welfare and Medicare. The Asylum Seeker Project at the Hotham Mission recently conducted an audit in which they interviewed 113 of the individuals who come to them seeking assistance—that is only a small number of the people they are supporting—and found that 71 of them had skills recognised on the skilled occupation list for the general skills migration program. So not only are we denying these individuals the opportunity to work and provide a livelihood for themselves and their children; we are denying Australia the skills that we currently need. It is nonsensical.

The cases of some of these people have been sitting on the minister’s desk for a very long time. I know of a family who have now been waiting for 10 years. That is not a joke. In that time, they have been given work rights and had them taken away again and again. Mum is a trained nurse and dad is a fitter and turner. Both of them can go out and get work tomorrow. Both of them want to go out and get work. Both of them want to have pride and support their children. But, no, they are living in a home that is provided by one of the churches. They are getting $30 a week to live on from one of my local churches. This is because they are entitled to nothing. They cannot go home because neither of them has a passport. They have not given away their documentation—neither of them can get a passport from the country of origin. It is barbaric to do this to these people. We need to do something immediately about community based asylum seekers.
These people are demanding the right to work. We have been discussing work choices and rights quite a bit over the last two days, so why not give that right to these people while they are in the community and their applications are being processed? We can draw comparisons. Some of the people who have recently been released—thanks to the efforts of the member for Pearce, who is in the chamber—and have been given work rights and access to Centrelink benefits would not have complied with the 45-day rule but they have received these benefits, while the other people have not. I do not get it, and it drives me nuts. I have tried to say to the department, ‘What rules apply?’ But every time someone else is released, a different set of rules seems to apply. There is no consistency and uniformity in what these individuals get, and it is cruel.

Asylum seekers who have no means of support have, according to research conducted in 2005, high levels of anxiety, depression, mental health issues and a reduced rate of overall health and nutrition. The denial of health and Medicare is particularly concerning for women needing prenatal care, sick children and the elderly. Asylum seekers are also more likely to have health concerns arising from their pre-immigration experiences that require attention, including torture related injuries. Denying asylum seekers access to any means of support and health care exacerbates health problems and, in prolonged circumstances, increases the likelihood of increased long-term health intervention. It also increases humanitarian concerns, which may become a basis of a section 417 consideration.

Ineligible asylum seekers live in abject poverty, and many experience homelessness. The ability to work and support their families would allow them to retain a sense of independence and dignity throughout the refugee determination process. That is the finding of the report. The report is stark and horrendous and talks about asylum seekers suffering from malnutrition in downtown Melbourne. This is not the sort of society we should have. We talk about the wealth, the prosperity and the egalitarian nature of our society, but if these community based asylum seekers have not hooked into the charities and support networks and do not know where they are they do not get support and they do not know where to go to get it. Some of them are turfed out of detention with nowhere to go. Some of them are given assistance and sent off to the Red Cross. The Red Cross says, ‘Unfortunately, you are a community based asylum seeker and you’re not entitled to the package that we’re funded for, but here is a group of individuals who will help.’ But unless you get on that merry-go-round you can be discovered, as was this poor woman from the Horn of Africa, in a park suffering from malnutrition. Or, as another woman who had been here for a while found—who had given birth and had suffered post-birth complications—you could be almost bleeding to death in a hospital admission ward with the staff saying, ‘We can’t take you in because you don’t have Medicare and you don’t have any money to pay.’ I do not want to live in a society in which we treat human beings in that way. I commend the steps taken in this bill, but they have not gone far enough. I commend the amendment moved by the member for Watson so that we in Australia can be proud of our treatment of asylum seekers.

Mrs MOYLAN (Pearce) (12.12 pm)—I am particularly grateful for the opportunity to speak on the Migration and Ombudsman Legislation Amendment Bill 2005, as it gives effect to the commitment of the Prime Minister, the Hon. John Howard, to improve the refugee detention policy so that it can be administered with, in the Prime Minister’s own words, ‘greater
flexibility, fairness and, above all, in a more timely manner’. And I thank my colleagues for the quality of the debate in this place today.

The Prime Minister played a key role in ensuring that the concerns raised by me, the member for Kooyong, the member for Cook and the member for McMillan were addressed in a most substantive way. We are now seeing the benefits of the new measures in operation. This bill further gives effect to those decisions. All children are now living with their families in the community in community housing. I have had calls from many members of the community who have supported families in the past and who tell me that it has gone very smoothly. I would like to also thank members of the department, some of whom I think are here today, because the transition has taken place in a very smooth way. It is a wonderful result. I say unashamedly that, when I saw that report on national television of those children and their families being released from detention centres, I wept. I think it was a terrible thing to have held children in detention centres for so long.

Amendments to the removal-pending visas mean that long-term detainees whose applications have been refused at both the primary and the review stages, and whose removal is not practicable for the time being, are being released into the community. Again, I welcome this. With regard to that matter, I have had word from those who have been assisting one of our longest detainees, Peter Qasim, who has now been released into the community. They tell me that Peter is doing exceptionally well, that he is working very hard and that he is trying to put his life back together. Peter’s case was very sad because there was a dispute over his citizenship, and he had no country willing to take him back. So he languished here in a detention centre for five years.

I would again like to place on record in this place my thanks to those very many Australians who have shown great compassion and understanding and who have personally taken care of many refugees, often in their own homes—Australians who supported these changes. I have been aware of Jewish and Christian families caring for Muslims. I think one of the most touching stories was of a young Muslim man who on release from detention was met by a Jewish family and taken to their home. He stayed in their home until such time as he could find his own accommodation. Now, several years on, they are all very good friends; they have a wonderful relationship and great bonds have developed between them. I have seen Muslims and Christians and all manner of people come together helping each other, putting aside their religious differences and looking at the human side of their relationship. It is a great example to all Australians.

Many individuals have volunteered. I have been to St John’s Church in Western Australia, where retirees, students and young married women volunteered and gave their time to teach English to refugees coming out of detention centres and help them to re-engage with the community. It is a great inspiration. I also want to recognise the many not-for-profit organisations and churches which have played critical roles in helping these people both while they have been in detention and since their release. They are marvellous people. I make no apology in this place—sometimes I am criticised for being too emotional—for saying that if we take the emotion out of what we are doing in this place we might as well not be here. And if we cannot inject humanity into our policies in this place then we are the poorer for that.

So I think it is important that we look at some of the human issues in how this policy and its administration have impacted on people’s lives. I deeply welcome the changes. I think it
has been very touching to witness first-hand some of the generosity and kindnesses that have been extended to those who fled their homes in fear of their lives and arrived in our country with very few resources. It is easy to make sweeping statements about these people, but there are many different circumstances. It is regrettable that, in the discussions to bring about these changes, we did not achieve a move to give permanent residency to people who had been on temporary protection visas provided there were no militating circumstances against such a decision.

The reason I say that is during the debate on detention issues I received the most amazing, heartfelt letters from people. There were thousands of them but one that stood out was from a businessman from Victoria. I will not reveal the details, but I have the letter. He said that he and his wife had taken in a man from Afghanistan who had been attacked by the Taliban and seriously injured, leaving him with terrible injuries that he will carry for the rest of his life. They gave him part-time work in their business in Victoria and he works part time for another business in that town. He had a temporary protection visa and he could not get permanent residency even though he had been on a temporary protection visa for several years. When this man and his family were split up during the war in Afghanistan, through no fault of his own, his wife and the five children fled to Pakistan—where they still are. The children have no access to education because they are noncitizens. This Victorian businessman and his wife now pay for the education of the five children in Pakistan as well as supporting this man—the refugee—by giving him a job and caring for him in many other ways.

This businessman wrote to me and said that every day the pain of the separation of this man from his family and his children is palpable. Because Australia has a policy of issuing temporary protection visas this man cannot leave the country without losing his opportunity to stay here permanently, and he cannot bring his wife and children here, even for a visit, under the circumstances that he was in at the time. That is why I asked for consideration to be given to providing temporary protection visa holders who had a good record, who had done the right thing, who had not entered into any criminal activities and who were not a security risk to be given permanent residency at the end of that period.

There are many other stories. Like my colleague from Chisholm, I am also perplexed at times about the way in which decisions are made either to allow people out on the basis of giving them work rights or to allow them out where they are totally dependent on charity. Again, I have met a number of these people. It is very difficult. It is something we need to look at a little more closely.

As a result of these changes, rapid assessments have taken place of almost all of the outstanding permanent protection visa applications from temporary protection visa holders. Again, I thank the agencies, particularly DIMIA—Dr Shergold has been responsible for making sure that the policy changes were properly implemented—for facilitating this process. It was an enormous workload and they are to be commended and congratulated for achieving that. Also, the Refugee Review Tribunal has had to do a considerable amount of this work—a very large caseload of assessments has been completed.

According to advice from the minister’s office, the department have been able to all but complete the processing by overhauling the interviewing and assessment processes; streamlining decision records, especially for straightforward approvals; streamlining the process for character checks; working with other agencies and governments to identify and deal with po-
tential bottlenecks in resolution of key criteria and for visa decisions; working with the RRT
to ensure the speedy transfer of information and relevant case files between the department
and the tribunal; and increasing management reporting to ensure the close oversight of the
progression of applications through the protection visa process.

The RRT has also implemented a range of administrative and operational measures aimed
at achieving the completion of the RRT review within 90 days. We are awaiting an update on
applications which were to be finished by 31 October, the date we were given for completion.
We are reassured that the majority of the cases which could have been decided within that
time have been decided and that there are few outstanding cases that give rise to concern. One
has to be practical in these matters and recognise that there will be issues that are not so easily
resolved and that there will be some delays in those cases.

This bill also establishes time limits for processing primary protection visa decisions by
DIMIA and the review of the Refugee Review Tribunal. The legislation applies a time limit of
90 days, during which the minister is required to decide applications for protection visas and
the RRT to decide applications for review of protection visa decisions by the minister. DIMIA
will be required to report a failure to meet the time limits to the minister, who will be required
to regularly table such reports in both houses of parliament. We welcome this level of scru-
tiny.

If review applications take longer than 90 days, then the department must report to the min-
ister in four-monthly cycles and reasons must be furnished as to why the application took
longer than 90 days to decide. The government established a high-level immigration interde-
partmental committee, as I said before, chaired by Dr Shergold, the Secretary to the Depart-
ment of the Prime Minister and Cabinet. We have been meeting with Dr Shergold about every
two weeks to hear the progress being made by the department. We have been very pleased
with the way those meetings have gone and the progress that has been made over that time.

DIMIA will be required to report every six months to the Commonwealth Ombudsman on
the status and case management of any person in immigration detention for two years or
longer. This addresses the kind of case we confronted with Mr Qasim. There are other cases as
well. It is important to understand that very rarely are there cases of stateless people but that
there are cases such as that of the man I met from Dubai. He was born in Dubai, his father
was born in Dubai, his grandfather was born in Dubai, but he is a noncitizen because he does
not come from the right ethnic group. During the first Gulf War, he and his family fled to a
neighbouring Gulf State. Subsequently, he made his way to Australia. Again, his wife and
children remain in a Gulf State with no status; they are noncitizens. He cannot leave Australia
to visit them and he cannot bring them here under the current arrangements. In our contempo-
rary world, there are people caught between countries with no status anywhere. What con-
cerns me deeply about these people is the impact on the children who, as I said, in some coun-
tries cannot even access schooling. I think that is a great tragedy.

I am very pleased that these long-term cases are going to be addressed and that there will
be a reporting mechanism to this House. If there are good reasons why people should be kept
in detention for more than two years, this parliament has a right to know about it. We are the
people out in the electorates to whom the community comes and seeks guidance and advice
and answers as to why this practice is happening. We have a responsibility to properly inform
our constituents why it is taking place. I greatly welcome a more open and accountable sys-

I will skip a few of the technicalities of the changes and just say that this bill specifically
amends the Ombudsman Act 1976 so as to allow the Ombudsman to use the title ‘Immigra-
tion Ombudsman’ when performing functions in relation to immigration and detention. It ex-

dplicitly allows the Ombudsman to perform functions and exercise powers under other Com-
monwealth or ACT legislation. It allows an agency or person to provide information to the
Ombudsman despite any law that would otherwise prevent them from doing so, and it clari-
fies the actions of contractors and subcontractors who may exercise powers or perform func-
tions for or on behalf of Australian government agencies.

These amendments attempt to avoid some of the situations so succinctly outlined in both
the Palmer and the Comrie reports. My good colleague the member for Cook has given us
much more information on that this morning, so I will not repeat all of it. The Palmer report
was an inquiry into the circumstances of the immigration detention of Cornelia Rau and was
extended to incorporate the Alvarez case and other matters. The report did raise some key is-

It further found that:

... many DIMIA officers who were interviewed and who used the detention powers under s189(1) of the
Migration Act 1958 had little understanding of what, in legal terms, constitutes ‘reasonable suspicion’
when applying it to a factual situation ...

The report went on to say:

There did not appear to be—even at senior management level—an understanding of the distinction be-
tween the discretionary nature of the exercise of ‘reasonable suspicion’ and the mandatory nature of
detention that must follow the forming of a ‘reasonable suspicion’.

There is a lot more to say about the power of the Ombudsman but I do not have time to go
into the detail; suffice it to say that I greatly welcome this legislation. It gives greater open-
ness and accountability to both the parliament and the public regarding people who are held
for a long time or people who have been detained unlawfully. The department of immigration
has very wide powers to detain people and I welcome the ability of the Ombudsman to play a
part in ensuring that the laws are administered as intended by this parliament.

In conclusion, I go back to a speech which I used in a piece I wrote during the detention
debate. It was a speech by the founding father of the Liberal Party, Sir Robert Menzies, when
he led opposition to Labor’s wartime refugee removal bill in the House in February 1949. He
warned that the refugee policy:

... in this area, must be applied by a sensible administration, neither rigid nor peremptory, but wise, ex-
ercising judgement on individual cases, always remembering the basic principle but always understand-
ing that harsh administration never yet improved any law but only impaired it, and that notoriously
harsh administration raises up to any law hostilities that may some day destroy it.

The situation may have been very different all those years ago, but these wise words should
echo in this place to remind us of the founding principles of democracy, free speech, the rule
of law, democratically elected leaders accountable to parliament and the separation of powers. Above all, the work we do in this place should always pass the test of upholding human life and human dignity. These changes provided a way forward, so that the government could maintain the integrity of its migration policy. They provide a way through the border protection policy, while ensuring a ‘fairer, more flexible policy’. That is what the Prime Minister wanted. The changes have bridged a divide that had become evident in the community due to aspects of our detention policy and its administration.

Personally, I am very grateful for the work of my colleagues the member for Cook and the member for Kooyong and all the others who helped us to bring about these changes. I am grateful for the release of children and their families from detention. I wholeheartedly support this bill and the further changes it facilitates.

Debate (on motion by Mr Bowen) adjourned.

ADJOURNMENT

Mrs GASH (Gilmore) (12.31 pm)—I move:
That the Main Committee do now adjourn.

Research and Development

Mr BOWEN (Prospect) (12.32 pm)—Today I want to draw the attention of the House to a very disturbing report released very recently by the Intellectual Property Research Institute and the Melbourne Institute of Applied Economic and Social Research in collaboration with Intellectual Property Australia and IBISWorld. This report deals with the lack of research and development in this nation and this government’s appalling record when it comes to research and development. We must of course compete with every other nation in the world when it comes to trade, but we have a choice. We can compete on wages or we can compete on productivity and quality. We can drive down wages or we can drive up quality.

Some people think that nations like China and Taiwan are competing on wages, but they are not. They are skilling their work forces and devoting massive amounts of effort to improving the standard of their research and development and the quality of their tertiary institutions. China has embarked on a concerted drive to have its universities regarded as among the top 10 universities in the world. Like Japan, Singapore and South Korea before them, China and Taiwan are perhaps competing on wages now, but they are enhancing their commitment to research and development and they are moving to compete as high-tech, high-value economies. And Australia is being left behind.

One of the worst decisions this government has made is the decision to reduce the research and development concession from 150 per cent to 125 per cent. It was one of its earliest decisions but it was also one of its worst. If you look at a graph of the percentage of expenditure of GDP on research and development, you see the rate rise from 0.25 per cent of GDP in 1983 to almost 0.9 per cent in 1996, and then in 1996 the graph begins to fall again. Only now, nine years later, is our rate of business investment in GDP again approaching 0.8 per cent. Paul Keating once described the Menzies years as the ‘Rip Van Winkle years’. The Howard years will be remembered as the wasted years when it comes to research and development.

It gets worse. When you combine government, business and private investment in research and development, Australia spends three per cent of GDP on this worthy venture. The OECD average is 4.3 per cent of GDP. Sweden spends more than eight per cent of its GDP; Finland,
over six per cent; Japan, almost six per cent; South Korea, over five per cent, and the United States, almost five per cent. This report estimates that it would take 15 to 20 years for Australia to reach the OECD average of spending on R&D at current growth rates. We cannot afford to wait that long.

We are seeing the effects of this government’s short-sightedness in the downturn in manufactured exports and in the record current account deficit. Another report, released recently, by the World Trade Organisation shows just how badly we are faring when it comes to manufactured exports. In 1996 Australia shipped out 1.12 per cent of the world’s exports; by 2004 our share had fallen to just 0.94 per cent of world exports. Manufactured exports grew under Labor at a rate of 14.8 per cent; under this government they have grown by a miserable 3.6 per cent.

I have spoken in this House before about some of the things the government can do to improve our R&D results and improve our record as to manufactured exports. I refer once again to the Irish example. Ireland is very close to being in trade balance, and its other economic figures are also very good. In the 1990s the Irish government embraced research and development. While its total level of R&D spending is not huge, it is well focused and there is no doubt that the Irish government is committed to research and development. Ireland is now producing more science graduates than any other European nation, and Eire is blessed with more than one respected national institution charged with promoting valuable research and innovation.

Enterprise Ireland, Science Foundation Ireland and the National Microelectronics Research Centre have all developed international reputations for the quality of their work, and the benefits for the Irish economy are there for all to see. Enterprise Ireland, formed just five years ago, is playing an active role in promoting biotech companies in innovative projects. Australia, on the other hand, is the only nation in the OECD which has reduced its spending on tertiary education over the last 10 years. Public investment in our universities and TAFEs has fallen eight per cent since 1995. The OECD average was an increase of 38 per cent. These figures are an indictment of this government’s approach to investing in our future.

McPherson Electorate: Kokoda Challenge

Mrs MAY (McPherson) (12.37 pm)—I have spoken on numerous times in this House on the Kokoda fundraising challenge that we launched on the Gold Coast in July this year. As part of that challenge, we launched the Kokoda Youth Leadership Program whereby we engaged with a number of young students on the Gold Coast. We worked with them in the community, they undertook the Kokoda Challenge and they made a commitment of four months training to undertake the walk at Kokoda in Papua New Guinea. Those young people have now returned home and we had a reception for them. We welcomed them home and heard some of the stories that they imparted to us. For most of them it was a real life-changing experience. They could not explain to us exactly what it had done to them but it had certainly changed their lives. It had brought together 12 young people—young men and women—in the spirit of mateship, sacrifice and endurance, as was the case with our young men during that first Kokoda walk.

I want to put on the record today some comments by one of the young men who was on the Kokoda Challenge walk—Tomas Perzelt or TP, as we have come to know him. TP has had a
few challenges in his life and I think the chance to go to PNG and undertake the walk has cer-
tainly given him a new perspective on life. TP started out by thanking Mr Wal Murphy of the
Nerang RSL subbranch and Mr Terry Macdonald, who was the Nerang RSL president, for
their help in organising the trek. TP said:

Approximately six months ago most of us were not aware of Kokoda and the significance it has in the
military history of Australia. I can assure you all here today that we are very aware of the incredible
sacrifices made by so many young Australians, who fought on the Kokoda track in 1942.

When we first applied to take part in the Kokoda Youth Leadership Program it is fair enough to say that
none of us were aware of the profound affect, and the incredible journey, that we were about to take.

The fourteen of us—
I am afraid the number went back to 12—

who started the leadership program in March were indeed Individuals, and in most cases really were out
to prove to ourselves and our peers, just how good we were. I believe that we can now proudly say that
we are indeed a committed team of young Australians, who like the veterans of Kokoda, really under-
stand what the meaning of Mateship, endurance, sacrifice, and courage are all about.

Our Journey together over the last six months will have a lasting affect, and we will cement a bond of
mateship, that we will carry on through our lives. It has also taught us the lessons of working with the
community at large, and how the support of that community can profoundly affect individuals who re-
ceive that support.

Whilst the focal point of our journey has been the heroes of Kokoda., from our experiences and under-
standings of what happened there it gives us a much clearer insight into the sacrifices made for our great
lives today. We thank them and are in absolute awe at what they have sacrificed for each of us.

Finally we would like to thank Mr. Doug Henderson, or sometimes better known as Duggy, our mentor,
our leader, and our best mate. His understanding and friendship in some times difficult circumstances,
really allowed us to understand what teamwork and Mateship means. Whilst Doug was physically un-
able to complete the Kokoda Track with us, he completed the track never the less, with him being in our
thoughts and in our hearts. You were there all the way to the end with us. You were our inspiration and
we were there because of you, so we thank you.

Once again on behalf of all the Kokoda Kids we thank you all very much and we trust that you will
continue to support the Kokoda Youth Leadership Program.

I think those words today truly sum up what those young people felt when they were out on
the Kokoda Track, how it has given them a new insight into their own lives and the challenges
they are facing in their own lives at school. They have also committed to giving back to their
communities over the next 12 months and working with the leadership kids that we select for
Kokoda next year.

I think the House would agree that it has been an extremely worthy program. Those young
people have learnt something of the history of Australia. They have learnt how important
Kokoda is to the history of this country. We on the Gold Coast are very hopeful that by em-
powering those young people with the history of our country, with the history of Kokoda, they
will be able to work with and educate other young people on the Gold Coast. We, as a group,
look forward to working with those young people with their training next year, with the kids
whom we will send up to PNG next year as part of the Kokoda Youth Leadership Program. I
commend every one of those children who were involved in the leadership program, each of
the kids who completed the walk at PNG. They have all done a tremendous job in representing
our country and our history.

MAIN COMMITTEE
Ms HOARE (Charlton) (12.42 pm)—I was one of 20 Labor members of parliament denied today the opportunity to speak in the debate on the Howard government’s extreme industrial relations legislation. The government gagged debate on the legislation this morning, denying me and many of my colleagues the opportunity to express in the national parliament the concerns that my constituents have raised over this government’s proposals. Just last week I was excluded from the House of Representatives for expressing the fears my constituents have with this legislation. Now, before I have had a chance to speak on the bill, the government has decided to gag all debate. It is important to place in Hansard my complete abhorrence of the industrial relations legislation. I believe it is equally important to record my support of Labor’s amendment. I seek leave to incorporate Labor’s amendment into this adjournment debate.

Leave granted.

The amendment read as follows—

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

“the House declines to give the bill a second reading, because the House condemns the Government:

(a) for failing to allow the House of Representatives and the Australian people proper scrutiny of the Bill prior to the debate in the House;
(b) for spending over $55 million dollars of taxpayers’ money advertising Liberal Party policy proposals before the WorkChoices legislation has entered the Parliament;
(c) for misleading the Australian people in those advertisements by making unsubstantiated assertions about the benefits of these changes and misrepresenting the extent to which employees will lose their rights under the WorkChoices legislation;
(d) for creating an industrial relations system that is extreme, unfair and divisive;
(e) for failing to put working families first in developing its plans to dramatically change Australia’s industrial relations laws;
(f) specifically, for failing to commission and publish a Family Impact Statement as promised during the election for all family related legislation;
(g) for failing to provide a guarantee that no individual Australian employee will be worse off under the extreme industrial relations changes;
(h) for attacking the living standards of Australian employees and their families by removing the ‘no disadvantage test’ from collective and individual agreements;
(i) by allowing employees to be forced onto unfair Australian Workplace Agreements as a condition of employment
(j) for abolishing annual wage increases made by the Australian Industrial Relations Commission for workers under Awards with the objective of reducing the Minimum Wage in real terms, and by removing the requirement that fairness be taken into account in the calculation of the Minimum Wage;
(k) for delaying the next National Wage Case by a period of six months, so that at least 1.7 million workers under Awards will not receive a wage increase for a period of 18 months or longer;
(l) for undermining family life by proposing to give employers the power to change employees’ work hours without reasonable notice;
(m) for destroying rights achieved through the hard work of generations of Australian workers;
(n) for undermining the principles of fairness that underpinned the Australian industrial relations system for the past hundred years;
(o) for gutting the Australian Industrial Relations Commission and eliminating the role of an independent umpire to ensure fair wages and conditions and resolve disputes;
(p) for developing proposals that will deliberately distort the workplace bargaining relationship in favour of employers and against employees;
(q) for denying Australian employees the capacity to bargain collectively with their employer for decent wages and conditions;
(r) for denying individuals the right to reject individual contracts which cut pay and conditions and undermine collective bargaining and union representation;
(s) for allowing individual contracts to undermine the rights of Australian workers under collective agreements and Awards, for instance by eliminating penalty rates, shift loadings, overtime and holiday pay and other Award conditions;
(t) for removing from almost 4 million employees any protection from unfair dismissal;
(u) for refusing to consult with State Governments in developing a unitary industrial relations system resulting in an inadequate and incomplete national system;
(v) for launching an unprovoked attack on responsible trade unions and asserting that those unions have no role in the economic and social future of Australia;
(w) for proposing to jail union representatives or fine them up to $33,000 if they negotiate to include health and safety, training and other clauses in agreements;
(x) for ignoring the concerns of the Australian community and Churches of the adverse impact these changes will have on Australian employees and their families;
(y) for failing to guarantee that wages will be sustained or increased in real terms under these changes; and
(z) for seeking to justify these measures by asserting that slashing wages will somehow make Australia more competitive, more productive, and increase employment”.

It is clear that the government is running scared from exposure and parliamentary scrutiny of this legislation and that the Prime Minister does not want to hear the views of the people of Lake Macquarie and Newcastle, who have legitimate fears for their work and family lives. These proposed measures represent an unprecedented attack on the working conditions of all Australian workers and will impact harshly on family life. Many of my constituents insist that their objection to this attack on their working conditions and their ability to support their families be heard in parliamentary debate. Clearly the government is not interested in those concerns and is determined that this extreme legislation giving complete control over employees’ conditions to the boss will become law no matter what.

This government will be held to account at the next election and will pay for its arrogant attack on all employees and their families. To that end I encourage all of my constituents and concerned people right across the country to participate in a national day of action being held on 15 November. The member for Newcastle will be attending the Newcastle Workers Club and I will be attending at the Cardiff Workers Club with many of our constituents to show them that we will continue to support them, that we will continue in their fight and that we will continue in their struggle over the next two years—when they will have their chance to say at the ballot box that enough is enough and this is far too extreme and they will vote this government out.
These new workplace laws strip away 100 years of respect for workers’ rights, remove legal protection for many employment conditions and will set a new layer for future workplace conditions of Australian workers. The Prime Minister’s industrial reforms are about fulfilling a lifelong ambition to attack and control the industrial relations system in Australia. With unfettered power in the Senate, there is no holding him back. The final draft of the legislation contained everything that unions and Labor had been warning the community about and worse. This legislation confirms all of our criticisms of the government’s plans. Unfair dismissal rights have gone for nearly four million workers. Individual contracts will cut take-home pay and basic conditions. The award safety net is to be removed, as is the no disadvantage test which underpins workplace bargaining. The real value of minimum wages will be allowed to fall and workers will have no enforceable legal right to bargain collectively.

This legislation tears up 100 years of the social compact in Australia. Since Federation, our industrial relations system has been built on the idea that ordinary hardworking Australians were able to participate in the benefits of economic growth and that there were protections for people when times got tough. This is the system that the federal government’s laws will destroy. Under the new laws, unions and workers can be fined $33,000 for even asking for workers to be protected from unfair dismissal or individual contracts, or clauses that protect job security. The government is spending over $55 million, knowingly misleading the public. Australian working families who are only just keeping their heads above water will be severely impacted by these changes. Penalty rates, public holidays, overtime pay, control over the roster, shift penalties: none of these conditions will be protected by law.

We believe these reforms are not needed. We need to skill our workforce to meet future demands and remove the bottlenecks which have developed in our infrastructure that inhibit national growth. Labor is committed to standing up and fighting these reforms. Australia deserves better and so do its workers. Union members have been joined by the broader community who care about decent rights and conditions in the workplace in opposing these laws. If you are not in a union, this certainly is the time to join. (Time expired)

Launceston: Air Quality

Mr MICHAEL FERGUSON (Bass) (12.47 pm)—I rise this afternoon to bring to the attention of the House some very interesting facts and improvements with respect to Launceston’s air quality in my electorate of Bass. Many people would be aware, especially people from Tasmania, that in the winter Launceston has the worst air quality of any Australian city, mainly because of the reliance on wood heaters for warmth. Unfortunately, that is the price you pay for living in one of the cooler but still temperate states in Australia.

Particle pollution levels in Launceston are falling and national air quality standards are likely to be met within two years as a result of a reduction in the number of polluting domestic wood heaters in Launceston. Proof of this improvement is provided in a new CSIRO report, released only last week, entitled Woodheaters in Launceston—Impacts on air quality. I seek leave to table that document.

Leave granted.

Mr MICHAEL FERGUSON—I thank the member for Denison. The CSIRO study was commissioned by the minister and the Department of the Environment and Heritage primarily to assess the contribution of the Launceston Woodheater Replacement Program, commonly
known as the buy-back program, in reducing particle pollution in the Tamar Valley region since the implementation of that program in June 2001. They were also asked to determine the carrying capacity of wood heaters for the Launceston airshed so that \( \text{PM}_{10} \) and \( \text{PM}_{2.5} \) as well as polycyclic aromatic hydrocarbons can be met. ‘\( \text{PM}_{10} \)’ refers to particulate matter of just 10 micrometres. One of those particles would be only 100th of a millimetre in diameter.

Very exciting results indicate that the Launceston Woodheater Replacement Program contributed to a substantially improved regional air quality. It accelerated the existing trend in the reduction in the number of wood heaters in Launceston. Excitingly, the key projections based on the best estimates and current trends are as follows: the \( \text{PM}_{10} \) particle standard of the air quality national environment protection measure is estimated to be met by 2007; the \( \text{PM}_{2.5} \) advisory reporting standard for fine particles, which are even more insidious to the lungs, is estimated to be met by 2009; and the PAH benchmark, referring to aromatic hydrocarbons, is estimated to be met by 2009. The final two findings concern me greatly. They show that we have reached substantial improvements in Launceston—to the point where the report even shows that the number of days where levels of \( \text{PM}_{10} \) pollution in the air exceeded the national standard changed from as high as 49 days per year in 1997 to 38 days in 2000 and just 10 days in 2004.

Since 2001, we have replaced more than 2,200 older, polluting wood heaters with cleaner sources of heating, and the report written by the CSIRO—completely independent of the department and the government—shows that it has made a big difference. Clearer air is on the horizon, which is great news for the environment and, more importantly, great news for the health of the people of Launceston whom I represent.

Meeting one of my election commitments—I know that many members will show interest in this—the government has established the Launceston Clean Air Industry Program. This is a very important initiative for the city of Launceston. As a government we are going to continue to fight against bad air quality in this city by offering up to $1 million as a total fund to industry in Launceston. Anywhere else in Australia it would not really be a problem, because the pollution could be blown away and dispersed, but in the city of Launceston, with the Tamar Valley being as it is, the air is trapped. Applications for this $1 million are being assessed right now. There are six applications, I am advised by the minister. They are going through a process of assessment at the moment. Hopefully, there will be some announcements early in the new year so that we can continue to take the fight up to air pollution and we can improve people’s health.

In closing, I would simply like to say that I welcome the role played to date by the state government but would strongly encourage them to do more in a proactive and practical sense.

The DEPUTY SPEAKER (Hon. IR Causley)—I apologise to the member for Bass. I know he sought leave to table a document, and I was distracted at the time. I will make the same comment I made to the member for Charlton: the document tabled will have to comply with the Speaker’s guidelines.

Warrant Officer Class 2 David Russell Nary
Integrated Humanitarian Settlement Strategy

Ms GRIERSON (Newcastle) (12.52 pm)—Before touching on the topic I want to mainly speak on, I would like to put on the record my sincere condolences to the friends and family
of special forces soldier Warrant Officer David Russell Nary, a father of five who died after
being hit by a vehicle last Sunday morning during preparations for his deployment to Iraq.
Although I completely opposed our involvement in the war in Iraq, I very much appreciate the
commitment of Warrant Officer Nary and his defence service comrades, who made that com-
mitment on our behalf. I also acknowledge the impact that such a distressing accident and sad
loss will have had on our defence personnel and express my sympathy and support to them.

I want to draw the attention of the Main Committee to the appalling way in which the Inte-
grated Humanitarian Settlement Strategy is currently being administered in my electorate of
Newcastle and in the Hunter region by DIMIA and Minister Cobb. In New South Wales,
Newcastle has the largest refugee settlement area outside Sydney. Under the IHSS, over 600
refugees, mostly from Sudan, Liberia and Burundi, have been successfully settled into the
Newcastle and Hunter region since late 2002 by the Newcastle migrant resource centre.

Unfortunately, the way in which DIMIA now divides the state of New South Wales into
just three contract areas for the IHSS tender means that Newcastle and the lower Hunter re-
region are now bundled in with one-half of the Sydney metropolitan area. This effectively ex-
cludes local community based organisations like our MRC and like other MRCs in regional
New South Wales from bidding for work in their own right in their own regions. Their choice
is to try to come in on the coat-tails of a bid from a larger Sydney based organisation.

The latest tender for the northern metropolitan zone was awarded to a Sydney based con-
sortium comprising the Australian College of Languages, ACL, Resolve FM and Mission
Australia, with no involvement or outsourcing to any local organisations. Until now, ACL’s
core business has been teaching English to migrants; it has no operational experience in our
region at all.

Under the previous IHSS tender the local MRC employed three full-time staff, a pool of
eight bilingual casuals and more than 50 community volunteers who worked the equivalent of
another 12 full-time positions. Under the new ‘centralised model’ implemented by ACL and
DIMIA, this has been reduced to a single part-time worker based in Newcastle. They offer a
nine to five service only and bring an interpreter from Sydney one day per week. In the first
month of operation they initiated no contact with community agencies and organisations.

Already there have been distressing examples of a failure to meet the KPIs set out in the
contract. Two weeks ago I met with a newly arrived Sudanese family of eight and as an Aus-
tralian I was ashamed. That family had been taken by the ACL caseworker to a house in New-
castle. On arrival they were given one loaf of bread, one dozen eggs, a tub of butter and a
food voucher for $50. They were not given translated instructions or a demonstration on how
to use the voucher, how to catch a bus, which shops to try to contact or where they were lo-
cated. They had no contact with the ACL caseworker for 10 days. Obviously starvation is now
one of the goals of DIMIA! That was an appalling situation. The family tried for three hours
to use that $50 food voucher, but returned to their house in despair. They do not have a full
command of English and were very distressed. Two of their daughters were in need of female
hygiene products, and they had no way of finding those either. This is absolutely unaccept-
able, and it is not the only case.

I am also aware of another family’s difficulty, which was brought to my attention by one of
the Catholic welfare workers who are so committed to these people. The family arrived at a
house and waited for more than 24 hours before receiving a starter kit. In those starter kits are

MAIN COMMITTEE
food, beds, linen—you cannot have people arriving in our community and expect them to sleep on the floor. It was absolutely distressing to them. In another case a local health worker informed me that she had tried to contact the ACL coordinator to assist a family. After eight phone calls and listening and responding to all the instructions in English herself, she abandoned the process. The ACL operator has also told families they are dealing with that, after 5 pm, they should ring 000. I have never been unfortunate enough to have to ring 000, but I do not know that many 000 phone workers would speak African languages. I call on the minister and DIMIA to look at the implementation of this dreadful system in Newcastle and the Hunter and to redress the harm being done to our families.

Workplace Relations

Ms GAMBARO (Petrie—Parliamentary Secretary to the Minister for Defence) (12.57 pm)—I rise today to set the record straight on aspects of the government’s Work Choices package and dispel some of the myths being generated by those opposite. We heard the member for Charlton a few moments ago attempting to scare the Australian public and Australian workers, whom Labor claim to represent. Make no mistake, Labor has rejected the government’s reform package at the behest of the union movement by which it is controlled. Labor is driven by ideological scaremongering rather than facts that really do matter.

Unions do not want workers to have control over their own destinies or for achievers to be rewarded for their efforts. They are desperate to maintain control of the Australian workplace, at the expense of employees and business operators. Young people tell me that they want control of their own destinies. They want to be able to make their own decisions and choices, and they have their own goals and directions for where they want to go in life. This is nothing more than an amazing scare campaign. Labor has failed to tell the Australian people that more than 750,000 Australian workplace agreements have already been approved since their introduction in 1997 and that 200,000 new AWAs have come into force over the past year alone.

Labor has failed to acknowledge that employees on AWAs earn, on average, 13 per cent more than those on collective agreements and as much as twice that received by workers on awards. Labor has not told the Australian people that the Office of the Employment Advocate’s employee attitude survey found employees on AWAs reported higher levels of satisfaction with their hours than employees on collective agreements. The same survey also found those on AWAs were more satisfied with their level of control over work hours, felt greater trust with management and enjoyed more influence over the work they do. Throughout its scare campaign, Labor has confused decent, hardworking Australians. The facts are that awards will not be abolished, minimum and award classification wages will not be cut, protection against unlawful termination will not be abolished, the right to join a union will not be removed, the right to lawful industrial action when negotiating an agreement will not be removed, union agreements will not be outlawed and the Australian Industrial Relations Commission will not be abolished.

The reality is that no employer ever wants to lose a good employee. The member for Gilmore, who is sitting beside me, has worked in the hospitality industry and knows the value of good employees. Good employees are like gold. The last thing that anyone wants is to lose a good employee. We value and respect the contribution that employees make to the work force. As someone who comes from the hospitality industry, the member for Gilmore knows only
too well how special employees are in the hospitality industry and how important they are to the success of the Australian economy.

These changes will bring Australian workplace relations into the 21st century and promote job growth and prosperity for all. Small business operators in my electorate tell me that unfair dismissal laws are preventing them putting on full-time staff. The current unfair dismissal provisions are not assisting—they do not help anyone. They do not help the employer and they do not help the employee. More and more employers are adding casual people to their work force. All that does for an employer is increase the administrative burden in terms of rostering and timetables. It creates another layer of administration that no employer in this country, in their right mind, would want.

It is time for us to consider the productivity of this great nation of ours. It is time for us to work towards a system that suits people. It suits people to work on weekends and it suits people sometimes to work during the week. We need to have an in-built flexibility system. We need to make sure that these provisions are enshrined; that minimum conditions, as I said, are protected; and that workers are able to choose whether they want to belong to a union. I have argued repeatedly in this place for more flexibility—in particular, for women in the work force, working mothers and sole parents. I believe that our changes do more to address flexibility than has been the case at any other time in history. The Australian people are aware of the wonderful economic record that the Australian government has achieved in providing economic prosperity and jobs and of the growth that we have provided for this country over the past 10 years. I want to reassure them that we will do nothing to hurt them in terms of productivity. (Time expired)

Question agreed to.

Main Committee adjourned at 1.03 pm
QUESTIONS IN WRITING

Veterans: Gold Card
(Question No. 1404)

Mr Murphy asked the Prime Minister, in writing, on 23 May 2005:

(1) Did the Prime Minister say that the Government would grant a Gold Card to all ex-servicemen who served in Japan with the British Commonwealth Occupation Forces (BCOF) after the cessation of hostilities following World War II; if so, what are the details; if not, why not.

(2) Will the Government grant a Gold Card to the ex-servicemen who served in Japan with the BCOF after 29 October 1945; if so, when; if not, why not.

Mr Howard—The answer to the honourable member’s question is as follows:

(1) and (2) This matter has been under consideration by the government from time to time and has been the subject of various representations from veterans’ groups. There are, however, no current plans to amend these entitlements.

Mr Aden Ridgeway
(Question No. 2429)

Mr Martin Ferguson asked the Minister for Small Business and Tourism, in writing, on 10 October 2005:

(1) Further to the answer to question No. 2042 (Hansard, 12 September 2005, page 125), when was Mr Aden Ridgeway first approached by the Government about the appointment to head Indigenous Tourism and when was the offer of appointment accepted.

(2) Who conducted the negotiations with Mr Ridgeway about his contract and what are the terms and conditions of his contract, including hours of duty, place of employment and travel entitlements.

Fran Bailey—The answer to the honourable member’s question is as follows:

(1) Mr Aden Ridgeway was first approached by the Government via correspondence dated 27 May 2005 following a recommendation by Tourism Australia. An agreement between Tourism Australia and Mr Ridgeway outlining the role and conditions for the position of Executive Chairman of Indigenous Tourism Australia was made on 25 June 2005.

(2) Negotiations regarding the contract of Mr Ridgeway were conducted by the Director of Australasia, Tourism Australia. The terms and conditions of Mr Ridgeway’s contract are as follows:

Place of employment – Sydney Office of Tourism Australia

Travel entitlements – Any travel is undertaken only with the approval of the relevant manager and entitlements are in accordance with standard Tourism Australia policies.

Hours of duty – average of seven days per month.

Remuneration – consistent with the Remuneration Tribunal Determinations for Chairs of comparable organisations.

Guiding Organisations of Australia
(Question No. 2449)

Mr Martin Ferguson asked the Minister for Small Business and Tourism, in writing, on 11 October 2005:

QUESTIONS IN WRITING
(1) Further to the answer to question No. 2113 (Hansard, 12 September 2005, page 127), were any organisations other than the Guiding Organisations of Australia (GOA) considered for the project to develop a national tour guide accreditation framework; if so, what were they.

(2) What sum has been allocated by the department to GOA to complete the project and what is the timeline for its implementation.

Fran Bailey—The answer to the honourable member’s question is as follows:

(1) No. GOA is the peak body which represents tour guides across Australia. It was considered appropriate that GOA receive support for the implementation of a national tour guide accreditation framework.

(2) $100,000 has been allocated to GOA to complete the project. The project commenced during July 2005 and is due for implementation by 30 April 2006.

Tourism

(Question No. 2450)

Mr Martin Ferguson asked the Minister for Small Business and Tourism, in writing, on 11 October 2005:

Is it the case that senior economist and former member of the Tourism Forecasting Committee, Mr Geoff Carmody, has described domestic tourism as a ‘dog’?

Fran Bailey—The answer to the honourable member’s question is as follows:

I am not aware of Mr Carmody describing domestic tourism as a ‘dog’.

The tourism industry is worth $73 billion dollars to the Australian economy, making up 3.9 percent of GDP and 5.6 per cent of total employment. More than three quarters of this comes from domestic tourism and 56 cents in every dollar spent on domestic tourism benefits regional Australia. Domestic tourism is the backbone of the Australian tourism industry.

The Government recognises the challenges it faces in promoting the expansion of domestic tourism in the face of high fuel prices, a strong Australian dollar and competition from substitute goods.

Tourism Australia rolled out its $8 million dollar Brand Australia domestic marketing campaign earlier this year and is working hard with industry to encourage Australians to holiday at home.

Telstra: Market Research

(Question No. 2455)

Mr Bowen asked the Minister representing the Minister for Finance and Administration, in writing, on 11 October 2005:

Did the Minister’s department engage DBM Consultants to provide market research in relation to the privatisation of Telstra; if so, (a) was the value of this contract $63,885, (b) what form did the market research take, and (c) what were the objectives of the market research.

Mr Costello—The Minister for Finance and Administration has supplied the following answer to the honourable member’s question:

Yes.

(a) No. The original contract for the market research Scoping Study adviser included an option to extend the services in relation to a possible sale of shares in Telstra. The Government has exercised its option to extend the Scoping Study market research adviser contract. An amount of $1,400,000 in respect of this contract for the Scoping Study and possible sale services was gazetted in June 2005. At the time the contract was extended in August 2005, the amount of the total contract was adjusted by $63,885 to more accurately reflect costs such as disbursements associated with the con-
tract. The revised gazetted contract value for the Scoping Study and possible sale, including fees and associated costs, is $1,463,885.

(b) DBM Consultants undertook surveys of community attitudes to, and qualitative and quantitative research on, likely investor demand for Telstra as an input to the Telstra Scoping Study.

(c) The objectives of the market research in relation to the Scoping Study were to inform the Scoping Study report on an assessment of likely retail demand for Telstra in a possible sale, including offer structure features, forms of securities and methods of sale.

The objectives of the market research for the possible sale of Telstra are to provide an assessment of likely retail demand, including the effect on demand of varying offer structure features, testing of creative concepts and evaluation research.

Producers: Ethanol
(Question No. 2461)

Mr Hayes asked the Minister for Industry, Tourism and Resources, in writing, on 11 October 2005:

(1) How many ethanol producers (a) applied for and (b) received grants under the Ethanol Production Grants program for the financial year ending 30 June (i) 2003, (ii) 2004 and (iii) 2005.

(2) What was the (a) total and (b) average sum provided to ethanol producers under the Ethanol Production Grants program for the financial year ending 30 June (i) 2003, (ii) 2004 and (iii) 2005.

Mr Ian Macfarlane—The answer to the honourable member’s question is as follows:

(1)

(a) (i) 2003-Two companies applied for grants.
(ii) 2004-Three companies applied for grants.
(iii) 2005-Three companies applied for grants.

(b) (i) 2003-Two companies received grants.
(ii) 2004-Three companies received grants.
(iii) 2005-Three companies received grants.

(2)

(a) Total sum per year provided under the program;
(i) 2003- $21,682,940.21
(ii) 2004- $10,883,056.19
(iii) 2005- $8,645,987.07

(b) Average sum per year provided under the program;
(i) 2003- $10,841,470.10
(ii) 2004- $3,627,685.40
(iii) 2005- $2,881,995.69