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<table>
<thead>
<tr>
<th>MONTH</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>7, 8, 9, 13, 14, 15, 16, 27, 28</td>
</tr>
<tr>
<td>March</td>
<td>1, 2, 27, 28, 29, 30</td>
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<td>May</td>
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<td>June</td>
<td>1, 13, 14, 15, 19, 20, 21, 22</td>
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<td>August</td>
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<td>September</td>
<td>4, 5, 6, 7, 11, 12, 13, 14</td>
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<td>October</td>
<td>9, 10, 11, 12, 16, 17, 18, 19, 30, 31</td>
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<tr>
<td>November</td>
<td>1, 2, 27, 28, 29, 30</td>
</tr>
<tr>
<td>December</td>
<td>4, 5, 6, 7</td>
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</table>

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- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 747 AM
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- **DARWIN**: 102.5 FM
FORTY-FIRST PARLIAMENT  
FIRST SESSION—SEVENTH 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 Phillip Anthony Barresi, the Hon. Bronwyn Kathleen Bishop, Mr Barry Wayne Haase, Mr Michael John Hatton, the Hon. Duncan James Colquhoun Kerr SC, 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—Mrs Kay Elizabeth Hull 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

<table>
<thead>
<tr>
<th>Member</th>
<th>Division</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abbott, Hon. Anthony John</td>
<td>Warringah, NSW</td>
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<tr>
<td>Adams, Hon. Dick Godfrey Harry</td>
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<td>Shortland, NSW</td>
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<td>Hardgrave, Hon. Gary Douglas</td>
<td>Moreton, Qld</td>
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<td>Cowper, NSW</td>
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<td>Blaxland, NSW</td>
<td>ALP</td>
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<td>Hawker, Hon. David Peter Maxwell</td>
<td>Wannon, Vic</td>
<td>LP</td>
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<td>Hasluck, WA</td>
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<td>North Sydney, NSW</td>
<td>LP</td>
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<td>Bennelong, NSW</td>
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<td>Riverina, NSW</td>
<td>Nats</td>
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<td>Fowler, NSW</td>
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<td>Tangney, WA</td>
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<td>Ryan, Qld</td>
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<td>Lindsay, NSW</td>
<td>LP</td>
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<td>Denison, Tas</td>
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<td>Herbert, Qld</td>
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<td>Robertson, NSW</td>
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<td>Jagajaga, Vic</td>
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<td>McClelland, Robert Bruce</td>
<td>Barton, NSW</td>
<td>ALP</td>
</tr>
</tbody>
</table>
## Members of the House of Representatives

<table>
<thead>
<tr>
<th>Member</th>
<th>Division</th>
<th>Party</th>
</tr>
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<tbody>
<tr>
<td>McGauran, Hon. Peter John</td>
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<td>Fraser, ACT</td>
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<td>Banks, NSW</td>
<td>ALP</td>
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<td>Pearce, WA</td>
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<tr>
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<td>ALP</td>
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<td>Bradfield, NSW</td>
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<td>ALP</td>
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<td>LP</td>
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<td>Sydney, NSW</td>
<td>ALP</td>
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<tr>
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<td>Chifley, NSW</td>
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</tbody>
</table>
Members of the House of Representatives

<table>
<thead>
<tr>
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<th>Division</th>
<th>Party</th>
</tr>
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<tr>
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<td>Windsor, Antony Harold Curties</td>
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<td>Wood, Jason Peter</td>
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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

Prime Minister
Minister for Trade and Deputy Prime Minister
Treasurer
Minister for Transport and Regional Services
Minister for Defence
Minister for Foreign Affairs
Minister for Health and Ageing and Leader of the House
Attorney-General
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House
Minister for Immigration and Multicultural Affairs
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues
Minister for Families, Community Services and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs
Minister for Industry, Tourism and Resources
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate
Minister for the Environment and Heritage

The Hon. John Winston Howard MP
The Hon. Mark Anthony James Vaile MP
The Hon. Peter Howard Costello MP
The Hon. Warren Errol Truss MP
The Hon. Dr Brendan John Nelson MP
The Hon. Alexander John Gosse Downer MP
The Hon. Anthony John Abbott MP
The Hon. Philip Maxwell Ruddock MP
Senator the Hon. Nicholas Hugh Minchin
The Hon. Peter John McGauran MP
Senator the Hon. Amanda Eloise Vanstone
The Hon. Julie Isabel Bishop MP
The Hon. Malcolm Thomas Brough MP
The Hon. Ian Elgin Macfarlane MP
The Hon. Kevin James Andrews MP
Senator the Hon. Helen Lloyd Coonan
Senator the Hon. Ian Gordon Campbell

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

Minister for Justice and Customs and Manager of Government Business in the Senate
Senator the Hon. Christopher Martin Ellison

Minister for Fisheries, Forestry and Conservation
Senator the Hon. Eric Abetz

Minister for the Arts and Sport
Senator the Hon. Charles Roderick Kemp

Minister for Human Services and Minister Assisting the Minister for Workplace Relations
The Hon. Joseph Benedict Hockey MP

Minister for Community Affairs
The Hon. John Kenneth Cobb MP

Minister for Revenue and Assistant Treasurer
The Hon. Peter Craig Dutton MP

Special Minister of State
The Hon. Gary Roy Nairn MP

Minister for Vocational and Technical Education and Minister Assisting the Prime Minister
The Hon. Gary Douglas Hardgrave MP

Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
The Hon. Bruce Frederick Billson MP

Minister for Workforce Participation
The Hon. Dr Sharman Nancy Stone MP

Parliamentary Secretary to the Minister for Finance and Administration
Senator the Hon. Richard Mansell Colbeck

Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Robert Charles Baldwin MP

Parliamentary Secretary to the Minister for Health and Ageing
The Hon. Christopher Maurice Pyne MP

Parliamentary Secretary to the Minister for Defence
Senator the Hon. John Alexander Lindsay (Sandy) Macdonald

Parliamentary Secretary (Trade)
The Hon. De-Anne Margaret Kelly MP

Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs
The Hon. Andrew John Robb MP

Parliamentary Secretary to the Prime Minister
The Hon. Malcolm Bligh Turnbull MP

Parliamentary Secretary to the Treasurer
The Hon. Christopher John Pearce MP

Parliamentary Secretary to the Minister for the Environment and Heritage
The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Sussan Penelope Ley MP

Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Patrick Francis Farmer MP

Parliamentary Secretary (Foreign Affairs)
The Hon. Teresa Gambaro MP
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</th>
<th>MP Name</th>
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<tr>
<td>Shadow Minister for Consumer Affairs and</td>
<td>Laurie Donald Thomas Ferguson MP</td>
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<td>Shadow Minister for Population Health and Health</td>
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<td>Regulation</td>
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<td>Shadow Minister for Agriculture and Fisheries</td>
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<td>Joel Andrew Fitzgibbon MP</td>
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<td>Shadow Minister for Homeland Security and</td>
<td>The Hon. Archibald Ronald Bevis MP</td>
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<td>Shadow Minister for Aviation and Transport Security</td>
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<td>Shadow Minister for Veterans' Affairs and</td>
<td>Alan Peter Griffin MP</td>
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<td>Shadow Special Minister of State</td>
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<td>Senator Jan Elizabeth McLucas</td>
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<td>Shadow Minister for Overseas Aid and Pacific</td>
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<td>Shadow Minister for Citizenship and Multicultural</td>
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<td>John Paul Murphy MP</td>
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<td>The Hon. Graham John Edwards MP</td>
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<td>Veterans’ Affairs</td>
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<td>Bernard Fernando Ripoll MP</td>
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<td>Senator Ursula Mary Stephens</td>
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<td>Shadow Parliamentary Secretary for Northern</td>
<td>The Hon. Warren Edward Snowdon MP</td>
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<tr>
<td>Australia and Indigenous Affairs</td>
<td></td>
</tr>
</tbody>
</table>

ix
## TUESDAY, 12 SEPTEMBER

### CHAMBER

**Ministerial Arrangements** ................................................................. 1  
Mr Peter Brock AM .............................................................................. 1  

**Questions Without Notice**—  
  Medibank Private ............................................................................... 2  
  Veterans: Gold Card .......................................................................... 3  
  Medibank Private ............................................................................... 4  
  Workplace Relations .......................................................................... 4  

**Distinguished Visitors** ..................................................................... 5  

**Questions Without Notice**—  
  Housing ................................................................................................. 5  
  US-Australia Free Trade Agreement .................................................... 6  
  Housing ................................................................................................. 6  
  Climate Change .................................................................................... 7  
  Climate Change .................................................................................... 8  
  Medibank Private ............................................................................... 10  
  Fruit and Vegetable Growers ............................................................... 11  
  Workplace Relations .......................................................................... 11  
  Oil for Food Program ......................................................................... 13  
  Solomon Islands .................................................................................. 13  
  Oil for Food Program ......................................................................... 14  
  Education .............................................................................................. 14  
  Oil for Food Program ......................................................................... 15  
  Indigenous Communities .................................................................... 16  
  Workplace Relations .......................................................................... 18  
  Workplace Relations .......................................................................... 18  

**Personal Explanations** ..................................................................... 19  

**Questions to the Speaker**—  
  Mr Peter Brock AM ............................................................................ 19  
  Sub Judice Rule ................................................................................... 19  

**Auditor-General’s Reports**—  
  Report No. 4 of 2006-07 .................................................................. 19  

**Documents** ........................................................................................ 20  

**Matters of Public Importance**—  
  Medibank Private ............................................................................... 20  

**Fruit And Vegetable Growers** ........................................................... 32  

**Committees**—  
  Selection Committee—Report ............................................................ 35  
  Maritime Transport and Offshore Facilities Security Amendment (Maritime Security Guards and Other Measures) Bill 2005 ......................................................... 38  
  National Cattle Disease Eradication Account Amendment Bill 2006 .......... 38  
  Trade Marks Amendment Bill 2006..................................................... 38  
  Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Amendment Bill (No. 2) 2006—  
    Referred to Main Committee ............................................................ 38  
  Mr Peter Brock AM ............................................................................ 38  
  Main Committee—  
    Mr Peter Brock AM—Reference ........................................................ 38
CONTENTS—continued

Independent Contractors Bill 2006 and Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006—
Second Reading ........................................................................................................................................ 38
Adjournment—
  Minister for Foreign Affairs ................................................................................................................ 97
  First Contact Aboriginal Corporation for Youth .................................................................................. 98
  Broadband Services .......................................................................................................................... 100
  Australian Values ............................................................................................................................. 101
  Queensland State Election ................................................................................................................. 102
  Hobart International Airport ............................................................................................................. 103
  Australian Values ............................................................................................................................. 105
Notices .................................................................................................................................................. 105

QUESTIONS IN WRITING
  Legal Services—(Question No. 2918) .............................................................................................. 107
  Telstra—(Question No. 3172) ............................................................................................................ 120
  President of the State of Israel: Travel Costs—(Question No. 3543) .............................................. 122
  Investing in Our Schools Program—(Question No. 3594) ............................................................. 122
  Child Care—(Question No. 3671) ...................................................................................................... 122
  Child Care—(Question No. 3675) ...................................................................................................... 124
  Governor-General—(Question No. 3728) ....................................................................................... 126
  F-22A Aircraft—(Question No. 3801) ................................................................................................. 126
  NH-90 Helicopter—(Question No. 3802) .......................................................................................... 127
  Joint Strike Fighter—(Question No. 3827) ....................................................................................... 127
  Israel—(Question No. 3841) .............................................................................................................. 128
  Small Business—(Question No. 3899) ............................................................................................. 128
  Small Business—(Question No. 3900) ............................................................................................. 129
  Small Business Council—(Question No. 3902) ............................................................................... 130
  Pilot Training—(Question No. 3938) ................................................................................................. 131
  Mr Trevor Flugge—(Question No. 3940) ......................................................................................... 132
  Expenditure Estimates—(Question No. 3958) .................................................................................. 132
The SPEAKER (Hon. David Hawker) took the chair at 2.00 pm and read prayers.

MINISTERIAL ARRANGEMENTS

Mr HOWARD (Bennelong—Prime Minister) (2.01 pm)—I inform the House that the Minister for Defence will be absent from question time today. He is attending a private funeral in Sydney. The Minister for Foreign Affairs will answer questions on his behalf. I also inform the House that the Minister for Veterans’ Affairs will be absent from question time today and tomorrow. He is attending the RSL National Congress in Western Australia. The Minister for Foreign Affairs will answer questions on his behalf today, and the Minister for Defence will answer questions on his behalf tomorrow.

MR PETER BROCK AM

Mr HOWARD (Bennelong—Prime Minister) (2.01 pm)—Mr Speaker, could I have the indulgence of the House to say a few words about the tragic death last Friday of Peter Brock in Western Australia. Yesterday, on indulgence, the Leader of the Opposition and I had something to say about the terrible events of five years ago which claimed the lives of almost 3,000 people and began a war against terrorism which will go on for a long time. Today we take a moment to honour the remarkable sporting contribution of Peter Brock.

In a nation which reveres its talented sports men and women, the sport of motor racing has seen few to match—in the eyes of many—and none to surpass the contribution of Peter Brock. He died doing what he loved best. He will be remembered very warmly by those who follow that sport and millions of other Australians for his great skill and flair.

Born in 1945 in Melbourne, Peter Brock had motor racing in his blood from a very early age. He started with a homemade signature car, his two-door Austin A30 with a Holden engine. He dominated the sport for three decades. As has been widely reported in recent days, he won the Bathurst 1000 nine times, earning him the title of ‘King of the Mountain’. He won many other great events, including the Sandown endurance classic nine times, the Around Australia trial and three Australian touring car championships.

He retired from full-time V8 supercar racing in 1997 and established the Peter Brock Foundation. That has provided support to a wide range of community programs, particularly youth charities and road safety initiatives. He was awarded the Order of Australia in 1980. He was awarded an Australian Sports Medal in 2000 and a Centenary Medal in 2001 for outstanding service to the community through fundraising.

I am sure that many members on both sides of this House would have come into contact with Peter Brock over his long career because of the natural intersection at various events of people in politics and those in sport. He was a lively, entertaining, enthusiastic person. He gave an enormous amount back to the sport of motor racing. He gave an enormous amount to the many causes with which he was associated. But he will long be remembered by devotees of motor racing for the remarkable ease and grace with which he dominated that sport for such a long period of time.

On behalf of the government and, I know, all members of the House, I extend my sympathy to Peter’s family, his other loved ones, his friends and the Australian motor racing community, all of whom have lost an icon, all of whom have lost a great practitioner of that art.

Mr BEAZLEY (Brand—Leader of the Opposition) (2.05 pm)—Could I have your
indulgence to speak on the same matter, Mr Speaker.

The SPEAKER—The Leader of the Opposition may proceed.

Mr BEAZLEY—What an extraordinary week it was last week for so many Australians—to have it bookended in the way in which it was by the tragic death of two genuine Australian icons, the sort of men who humble us all in this place, who through their own efforts, their own skills, their commitments, their convictions and the lives they lead bring themselves to the attention of their fellow Australians as role models in ways in which we in this place can only vaguely aspire to. It was Steve Irwin at the beginning of the week and Peter Brock at the end.

I know there are many colleagues on my side of the House who would like to say a word or two about Peter Brock—in particular, colleagues from Victoria who held him in enormous esteem. Maybe at some point in time they will have that opportunity to do so.

His was a life led fully, passionately, publicly and massively pleasingly for a very substantial number of Australians. The Prime Minister has alluded to the fact that he made his racing debut in 1967, in an old Austin A30 which, folklore has it, he cut down with an axe in the farm’s chook shed. He was quickly signed to Holden, whose cars were sold by his father in country Victoria.

Between 1972 and 1987, he won the Bathurst 1000 nine times, making himself the undisputed ‘King of the Mountain’. In 1979 he took that honour by a record six laps. He won three Australian Touring Car championships and took out the Sandown endurance classic nine times. He seemed invincible and unsinkable. The circumstances of his death were totally unexpected.

From my point of view, I cannot claim to be in any shape or form a revhead. I do attend the odd Clipsal event, and I have been seen at one or two other events, but many Australians are more passionately engaged in racing than I am. But even somebody like me, who probably relates to it more like an ordinary member of the community, Peter Brock’s work on road safety was simply outstanding. He set an example to young Australians. For instance, the way he would be filmed taking people through the processes by which one could drive cautiously and effectively performed an invaluable service in an area which, too often in this country, produces some of the starkest human tragedies—the death toll associated with road accidents. He poured himself into that. The Peter Brock Foundation that he set up did much more, of course, than simply focus on those issues; it reflected his own predilection towards seeing disadvantaged youths, battling young Australians, get a bit of a chance in life.

Like all Australians, I have come over time to admire Peter Brock. On behalf of all my colleagues in the Australian Labor Party, I want to extend our profound sympathies to his family, his friends and his colleagues, especially his colleagues at Holden, at this time of their terribly sad loss. I am delighted that the Victorian government are going to see their way clear to ensure that he is properly memorialised in a state funeral.

QUESTIONS WITHOUT NOTICE
Medibank Private

Mr BEAZLEY (2.09 pm)—My question is to the Prime Minister and refers to the confirmation that the government sale of Medibank has been put on hold. Will the Prime Minister finally confirm for the House, for Medibank’s more than three million members and for the 63 per cent of voters who oppose the sale, whether the government has cut and run until after the next election? If this is the case, why is the Prime Minister persisting with the introduction of the sale
legislation in this session when Australians do not want him to?

Mr HOWARD—It remains the policy of the government to privatise Medibank Private. Given that we are proceeding with T3—the sale of approximately some $8 billion of stock in Telstra to the public—and given that it is the strong desire of the government to have a public float of Medibank Private, our financial advisers have suggested that, clearly, the two should not be run together. That stands to reason. I would have thought that even those on the opposition front bench who do not study these matters very closely would immediately acknowledge that to try to run the two of them together would be unwise, and we are plainly not going to do that. We do intend to go ahead with the legislation because it is the policy of the government to privatise Medibank Private.

Veterans: Gold Card

Mr MICHAEL FERGUSON (2.11 pm)—My question is addressed to the Prime Minister. Would the Prime Minister outline to the House what the government is doing to support and improve veterans’ health care?

Mr HOWARD—I am pleased to confirm to the House that, at the RSL National Congress in Western Australia, the Minister for Veterans’ Affairs will be announcing an injection of an additional $600 million into veterans’ health care services. The purpose of this injection of funds is to ensure that the full value of the gold card and the white card is maintained for the more than 300,000 Australian veterans and widows who currently enjoy the benefits of these particular cards.

I remind the House that the gold card was introduced by the coalition government. It remains one of the major contributions made by any government over the last 20 years to the cause of veterans’ health care. Bearing in mind that, of those entitled to the gold card, 70 per cent are over the age of 75 years and, as a result, they have regular resort to not only general practitioners but also medical specialists, pathologists, allied health officials and many others in the medical field, it is essential that the full value of the gold card is maintained.

In recent months evidence has emerged that some doctors were not giving full credit to the gold card. Some were indicating an unwillingness to treat veterans under the gold card system. The government conducted a very detailed examination and formed the view that some enhancements of the amounts paid to specialists, pathologists, optometrists and other health professionals, and some increases in their fees, were needed and justified. We have conducted discussions with the Australian Medical Association, and the Australian Medical Association has responded enthusiastically to what the government has put forward and indicated that it believes it will not only reinforce the commitment of those doctors who continue to give full faith and credit to the gold card—and I thank them for doing so—but also bring back into the gold card system a large number of doctors who were either not treating under the gold card system or thinking of taking that course of action.

We have discussed the matter with the leadership of the RSL. The RSL has expressed its very warm and positive response to these changes that have been made. Looking after those who put their lives on the line for this country is a basic responsibility of any government. What we have done by this announcement will add to the $4.6 billion annually which is committed to the support and care of Australian veterans. The gold card was a great decision and a great innovation. It recognised in a very emphatic way the debt we owe to these men and women. By the announcement being made by the minister in Perth today, we are reinforcing
the enduring commitment of the coalition to the value of the gold card to those more than 300,000 Australians who richly deserve its benefits and its entitlements.

Medibank Private
Ms GILLARD (2.15 pm)—My question is to the Minister for Health and Ageing. Minister, I refer to the Prime Minister’s answer to the question from the Leader of the Opposition and to the fact that the only reason the government has given for deferring the Medibank Private sale until after the next election is: ‘Telstra is a major government priority and we would not want to make any decisions that affect T3.’ Minister, isn’t the Minister for Human Services right when he says:
... the stock market is deep enough and liquid enough to cope with Medibank Private, Telstra and a range of other listings this year ...
Minister, isn’t the real reason the government has deferred the sale of Medibank private that Australians are opposed to it?

The SPEAKER—In calling the Minister for Health and Ageing, I inform him that he is not required to comment on remarks made by another minister. Nonetheless, I call the Minister for Health and Ageing

Mr ABBOTT—If the government were scared by today’s opinion poll result, we would have entirely abandoned the sale of Medibank Private. We have not. We support the sale of Medibank Private. We think it will be good for policyholders, it will be good for taxpayers and it will be good for the health sector. We will proceed with the sale of Medibank Private, as announced, in 2008 and we will introduce legislation into this parliament to make this possible in two weeks time.

Workplace Relations
Mr HENRY (2.17 pm)—My question is addressed to the Prime Minister. Is the Prime Minister aware of proposals to allow uninvited third parties to amend employment contracts? How would any such proposal impact on employment conditions?

Mr HOWARD—As it happens, I am—courtesy of the West Australian. There is an article in the West Australian that reveals something the Leader of the Opposition would not reveal at the weekend—that Labor’s policy on AWAs will allow unions to demand a review of an Australian workplace agreement even if the employee does not want this to occur. The West Australian, in an article authored by Kim Macdonald and Chris Johnson, had this to say:
Under the policy, confirmed by Mr Beazley’s office, unions would be allowed to call on the Australian Industrial Relations Commission to subject all existing individual agreements to change to fit a new set of yet-to-be-announced minimum standards, even if neither party in the agreement want to change.
This is the latest assault by the Labor Party on, potentially, up to one million working conditions of Australians. What the Labor Party are going to do—and the big signs show it—is tear up the working conditions of one million Australians. They are going to put a dagger to the throat of the great resource industries of Western Australia.

It is no surprise that this story appeared in the West Australian—and it is no surprise because the people of Western Australia know the enormous contribution that the mining industry is making not only to the wealth of that state but also to the wealth of the entire nation. So bit by bit, answer by answer, article by article, we are having dragged out of the Leader of the Opposition the extent to which he has capitulated to the union movement on this issue.

This is the latest example. The article confirms it, because David Robinson of the union movement in Western Australia made it very clear that what is going to be involved
here is that, if you had a workplace agreement, there could be an approach made to the Industrial Relations Commission to have the workplace agreement reopened, and superimposed on that workplace agreement would be a new set of minimum standards—yet to be announced, of course; that will presumably come in some other answer to a question—notwithstanding the fact that neither the employer nor the employee want that agreement reopened.

The collective bargaining proposals of the Leader of the Opposition are a wish fulfilment of Mr Greg Combet’s desire to see the union movement once again running the affairs of this country. Mr Combet famously said in Adelaide: ‘There used to be a time when the unions ran Australia. It wouldn’t be a bad idea if we returned to those days.’

There is a place for the union movement in this country, but it is not a place that involves its compulsory insertion in every employment contract irrespective of whether that union movement is wanted or not. Under the laws that have been put into place by this government, if people want a union to bargain on their behalf, they can do so. If people want to belong to a union, they can do so. If they do not want to belong to a union, then their rights to refuse to belong to a union are to be protected. But it will never be part of the industrial relations policy of this government to allow unwanted union intervention upsetting an arrangement concluded between an employer and an employee to the mutual benefit and advancement of those two parties.

**QUESTIONS WITHOUT NOTICE**

**Housing**

**Mr SWAN** (2.21 pm)—My question is to the Prime Minister. Is the Prime Minister aware of new figures from Deutsche Bank which estimate that household debt is now a record 171 per cent of household disposable income—double the level of a decade ago? Does the Prime Minister agree that this greater exposure of households to debt means that the slightest increase in interest rates hurts households’ budgets? Doesn’t this new interest rate reality explain why household debt servicing obligations are higher today after your seven back-to-back interest rate hikes than when interest rates were 17 per cent under Mr Keating?

**Mr HOWARD**—I am generally aware of that report. I am also specifically aware of a speech made by Mr Ric Battellino, the Assistant Governor of the Reserve Bank of Australia—a speech he made on 22 August 2006. He had this to say:

... in judging the health of household finances, we should not look at trends in debt in isolation; we need to look at the overall financial position of households.

If we do this, we see that households’ financial assets have increased by substantially more than their debt ... As a result, even though household debt has increased, the net financial position of households has improved noticeably.

In other words, Australians are much wealthier now than they were 10 years ago. They are much better off. You do not just look at the increase in debt; you look at the commensurate increase in assets. Anybody with a simple understanding of economics will know that. What Mr Battellino was saying was that, if you look at the overall situation, you find that the financial position of Australian households has, to use his words, ‘improved noticeably’—and that, of course, has
happened over the last 10 years under the stewardship of this government.

**US-Australia Free Trade Agreement**

**Mr BROADBENT** (2.24 pm)—My question is to the Deputy Prime Minister and Minister for Trade. Would the Deputy Prime Minister and Minister for Trade inform the House how Australian companies are taking advantage of the free trade agreement with the United States. Further, how is that free trade agreement benefiting our exporters, creating jobs and keeping the economy strong, particularly in my corner of the world, the electorate of McMillan?

**Mr VAILE**—I thank the member for McMillan for his question. One of the classic examples of a company that has benefited from the free trade agreement with the United States comes from his electorate—the Murray Goulburn dairy manufacturer in Leongatha, which just happens to employ 400 people in Leongatha. As a result of the negotiations, we got much better access—for dairy products. From Leongatha, Murray Goulburn is exporting butter, cheese and skim milk powder into the United States market. It is one of the dramatic increases in access that has been gained by the Australian dairy industry as a result of the free trade agreement.

The United States is the largest economy in the world. It is more than five times the size of the economy of China. The free trade agreement is bringing real benefits to our exporters and helping to create many new jobs in the Australian economy. The United States is our second largest trading partner, now worth over $41 billion each year.

The break-up across the different sectors of what we are selling to the United States is interesting. The member for McMillan will be interested in this. Twenty-two per cent is agricultural goods, 32 per cent is services and 46 per cent is non-agricultural goods—that is, manufactured goods, processed foods and the like. The United States market is currently our second largest beef market. We have been exporting record levels of lamb products and dairy products to the United States.

The manufacturing exporters are also doing extremely well in this market as a result of the FTA. In 2005-06, there was an increase of six per cent—up to about $4.6 billion worth of exports. This included medical instruments, auto exports, telecommunications and medications.

The other point I want to make is that the value-added processed food exports into the United States are also going very well. I want to instance one other Victorian company which is about to break back into the market in the United States. It is the famous Four ’N Twenty pies icon from Bairnsdale in Victoria—probably from the electorate of the member for Gippsland. It has just announced that it is going to export the great Aussie pie back into the US market.

The managing director of that company said that the free trade agreement played a big part in getting into the US market. But, most importantly, this brand was owned by an American company. It has been bought back by an Australian company and now that company is going to be exporting into the American market. That says something for the strength of the Australian economy—that this business is able to be competitive, operate on the international stage and export back into the United States market.

**Housing**

**Ms KING** (2.27 pm)—My question is to the Prime Minister. Is the Prime Minister aware that, according to data from the Supreme Court of Victoria, in the first half of this year there were 1,474 mortgage repossessions—more than 2½ times the 563 in the first half of 2003? What does the Prime Min-
ister have to say to Victorian families facing repossession after the seven back-to-back interest rate rises since 2002?

Mr HOWARD—I am broadly aware of those figures. As I indicated in response to a similar question asked yesterday, I would want to know, in relation to the debate on housing affordability, what proportion of those represented the repossessions of houses under mortgage defaults, because you can have a mortgage on a commercial property just as easily as you can have a mortgage on a housing property.

Opposition members interjecting—

Mr HOWARD—I will be interested to know whether it is the policy of the Australian Labor Party, if it wins office, to abolish any business bankruptcies. The reality is that from time to time firms do get into difficulty; it is also the case that, sadly, from time to time, individual households do. I take the opportunity of counselling people against taking on obligations beyond their capacity to repay.

But the truth is overwhelmingly that the problem of housing affordability is not a problem of interest rates; it is a problem related to the disproportionately large increase in the price of housing over recent years. We all know that. The Governor of the Reserve Bank knows that and any sensible analysis will tell you that. People are borrowing more because interest rates are low. When interest rates go high, people will borrow less. It is axiomatic that if interest rates are low people will borrow more and take on greater obligations; that is happening and, as a consequence, some of them, sadly, will get into difficulties.

Climate Change

Mr BARRESI (2.30 pm)—My question is addressed to the Minister for Foreign Affairs. Would the minister update the House on Australia’s international action and cooperation to address the issue of climate change?

Mr DOWNER—I thank the honourable member for Deakin for his question and for his interest, because I know he has a serious interest in these issues and he shares the view that all members of the government share that obviously the issue of climate change is one of the issues the international community needs to address. This government believes that issues should be addressed not by left-wing ranting but in a sensible and practical way. One of the things that really amuse me about the political Left in this country is that they seem to think they have a solution to the issue of climate change. Their argument is that, if you sign the Kyoto protocol and ratify it, somehow that will solve the problem of climate change. If I may say so, this is a deceit. It is deceiving the Australian people to argue that if Australia signed the Kyoto protocol somehow that would solve the problem of climate change. It is quite wrong.

The government have not ratified Kyoto, not because we do not think the issue of climate change needs to be addressed, but for two reasons. First of all, Kyoto will not have any significant impact at all on the issue of climate change. It is estimated that if the 2010 targets are met by all those countries that have set targets—and I think it is highly unlikely that those targets will be reached—global emissions will be 40 per cent higher than they were in 1990. If there were no Kyoto protocol, those emissions would be 41 per cent higher than they were in 1990. You cannot argue that that is going to have a significant impact on climate change—or, to put that another way, if these targets are met by the year 2100 global temperatures will be cut by just 3/100ths of a degree—

Mr Kelvin Thomson—Mr Speaker, I rise on a point of order. On the question of rele-
vance, the minister was asked to tell us what—

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

_Mr Kelvin Thomson interjecting_

**The SPEAKER**—When the member for Wills is asked to resume his seat, he will.

_Mr Kelvin Thomson interjecting_

**The SPEAKER**—I warn the member for Wills! The minister is in order.

**Mr Downer**—What is particularly significant is that Kyoto does nothing to address the issue of emissions from developing countries like China, Brazil and India. The second objection we have to Kyoto is that it puts all the burden on countries like Australia and none of the burden on the developing world, which means in the end that you are proposing to export jobs from our own country to the developing world—to China and Indonesia.

_Mr Tanner interjecting_

**The SPEAKER**—Order! The member for Melbourne is warned!

**Mr Downer**—The government believes that the great challenge for the world is to do two things. One is to address the issue of climate change, and the other is to do so in a way that does not destroy jobs and does not destroy the ambitions of developing countries to achieve higher living standards. That is why the Asia-Pacific Partnership on Clean Development and Climate, AP6, is such a sensible proposal.

That great intellectual giant, the Leader of the Opposition, says that the officials cannot persuade anybody in the States to support it. The Americans will be participating in the working groups along with the Chinese, the Indians, the Koreans, the Japanese and, of course, the Australians. We will be participating in working groups in South Korea during the course of next month, when we will consider 90 different projects dealing with the question of transfers of technology to developing countries, the introduction of new technologies and issues such as cleaner fossil fuels and support for renewable energy. This is a practical way of addressing an important issue without destroying jobs and without undermining the capacity of developing countries to improve living standards.

Kyoto does nothing to address this issue. The Labor Party is trying to convince the Australian public it cares about climate change, so it says it would ratify Kyoto. But the fact is, as I have explained, it will not address climate change and, as we know from statements the member for Grayndler has made, Labor has not supported the AP6 initiative.

**Climate Change**

**Mr Albanese** (2.35 pm)—My question is to the Prime Minister. Has the Prime Minister seen comments by Al Gore on last night’s _The 7.30 Report_, responding to those who are sceptical about scientists’ so-called gloomy predictions on climate change, as follows:

It’s not a question of mood. It’s a question of reality. ... there’s no longer debate over whether the earth is round or flat ...

Does the Prime Minister acknowledge that the scientific consensus about climate change is accurately reflected in the documentary _An Inconvenient Truth_, or does the Prime Minister agree with comments by the Minister for Industry, Tourism and Resources—

**Mrs Bronwyn Bishop**—Mr Speaker, I rise on a point of order. The standing orders and practice clearly state that long and protracted preludes to questions are out of order. This is merely a resuscitation of a television program last night and is out of order.

**The SPEAKER**—The member will resume her seat. The member for Grayndler will come to his question.
Mr ALBANESE—Does the Prime Minister acknowledge that the scientific consensus about climate change is accurately reflected in the documentary *An Inconvenient Truth* by Al Gore, or does the Prime Minister agree with comments by his industry minister dismissing the documentary as ‘just entertainment; that’s all it is’?

Mr HOWARD—The answer to the question is: no, I have not seen the movie. I will possibly, at some stage, see the movie. But on the subject of seeing movies—

Mr Albanese interjecting—

The SPEAKER—The member for Grayndler is warned!

Mr HOWARD—I have heard a lot of what Mr Gore has said. It has been hard to escape Mr Gore on the ABC over the last 24 hours. He has appeared on just about every conceivable program, but I will just make that factual statement. I heard him—I think it was on Radio National—this morning. It is interesting—

Mr Bevis interjecting—

The SPEAKER—Order! The member for Brisbane!

Mr HOWARD—that he was asked about seeing movies. He was asked whether he had seen the *Path to 9/11*, and he said, ‘No, I haven’t seen it.’ It is interesting, of course, because the *Path to 9/11* was mildly critical, in various stages, of the policies of the administration that Mr Gore once belonged to. He was at pains to make the point that these movies are not always factual and they have an obligation to be factual. I think that is right.

Mr Fitzgibbon—Like your interest rate pledge!

The SPEAKER—The member for Hunter!

Mr HOWARD—Mr Gore and I actually had quite a pleasant but short telephone conversation yesterday, which he initiated. I think it is fair to say—

Ms Burke interjecting—

The SPEAKER—Order! The member for Chisholm!

Mr HOWARD—that, in relation to this issue—

Honourable members interjecting—

The SPEAKER—Order! The Prime Minister has the call and the Prime Minister will be heard.

Mr Albanese interjecting—

The SPEAKER—The member for Grayndler is on very thin ice.

Mr Fitzgibbon—The ice is melting as we speak!

The SPEAKER—Order!

Mr HOWARD—The argument in relation to this issue is not an argument about whether or not—

Mr Fitzgibbon interjecting—

The SPEAKER—Order! The Prime Minister will resume his seat. The member for Hunter will remove himself from the House.

The member for Hunter then left the chamber.

Mr HOWARD—The argument over climate change is not whether there is a threat posed by climate change; there seems to be broad agreement on that, although there is a lot of legitimate debate about the speed of that change and the nature of the threat, and I do not think it is right to say that there is total unanimity about that in the scientific community. But that is one part of the debate. The other part of the debate is how best to respond to it. I have made it very plain on behalf of the government that we do not intend to sign a protocol which would export Australian jobs to other countries. Those from the other side who interject so vociferously do not include the quiet, contemplative
member for Batman, whose views on this subject are a little closer to reality than the man who sits immediately on his left—that is, the spokesman on this area. This is what the member for Batman correctly had to say on this issue—

Mr Rudd—You’ve already signed it!
The SPEAKER—Order! The member for Griffith!

Mr Howard—He said in the Australian of 13 January 2006:
It’s time to abandon the political correctness espoused by the green movement. Let’s be real: without getting business on board we cannot achieve anything.

... ... ...
... the Asia-Pacific Partnership ... offers Australia not only an opportunity for economic growth, but also allows us to be part of the solution to the environmental consequences of what is happening in our region ...
They are the sorts of arguments—

Mr Pyne interjecting—
The SPEAKER—Order! The member for Sturt is warned!

Mr Howard—that I would play back to the former Vice President of the United States. They are the arguments that I would use in response to the shadow minister. They are the arguments of one of the few people on the front bench of the Australian Labor Party who has an interest in preserving Australian jobs. He wants Australian jobs; the rest of them want them to go to China or Indonesia, but we agree with the member for Batman.

Medibank Private

Mr Cadman (2.43 pm)—My question is addressed to the Minister for Health and Ageing. Is the minister aware of claims that privatisation is hurtful in the health sector? What is the government’s response?

Mr Abbott—I can assure the member for Mitchell that Labor’s scaremongering is wrong; it is dead wrong. Privatisation will be as good for Medibank Private as it has been—

Ms Burke interjecting—
The SPEAKER—The member for Chisholm is warned!

Mr Abbott—for Qantas and as it has been for the Commonwealth Bank. That is why this sale has been deferred but certainly not abandoned—because privatisation of Medibank Private will be good for policyholders, it will be good for taxpayers and it will be good for the health sector as a whole. Let me quote the chief executive of NIB, a gentleman called Mark Fitzgibbon, who said:

The pressure on premiums will be reduced if Medibank goes private. We expect much more aggressive competition from a privately owned Medibank.

Then, of course, there was Francis Sullivan, the chief executive of Catholic Health Australia, who said:
... Medibank Private has outgrown its government parentage.

... ... ...
What is needed is to open the market to new players who bring serious competitive tension and innovation to the health system.

There was even a time when the Leader of the Opposition himself supported privatisation. In 1995, in this chamber, the Leader of the Opposition said:
We as a government have a considerable rate of success in relation to privatisation. We have two airlines undergoing privatisation.

... ... ...
... We are getting the airports in place. We have privatised ... the Commonwealth Bank. We have privatised the Commonwealth Serum Laboratories and the bulk of defence industries.
He went on to say:
The total number of privatisation projects under the Fraser-Howard government amounted to Belconnen Mall ...

He even mocked the coalition for being insufficiently in favour of privatisation. How times have changed, and how the Leader of the Opposition has so totally shrunk in stature since those days. Let us make it absolutely clear: privatisation of Medibank Private will no more raise health insurance premiums than the privatisation of the Commonwealth Bank raised interest rates and the privatisation of Qantas caused airfares to rise.

There are two conclusions to be drawn from the Labor Party’s cheap populism on this point. The first is that they are still socialists at heart. They absolutely hate the private sector. The second is that the Leader of the Opposition is a much less principled politician now—

Mr Swan interjecting—

The SPEAKER—The member for Lilley is warned!

Mr ABBOTT—than he was when he had real leaders like Bob Hawke and Paul Keating to tell him what was right.

Fruit and Vegetable Growers

Mr GAVAN O’CONNOR (2.46 pm)—My question is to the Minister for Agriculture, Fisheries and Forestry. I refer the minister to this statement by the former Deputy Prime Minister and Leader of the National Party on 1 October 2004, which begins:

A re-elected Coalition Government will impose a mandatory code of conduct on the horticulture industry.

Is the minister aware that the minister for industry told ABC Radio this morning:

The government’s undertaking, as part of our 2004 election commitments, was that we would introduce a voluntary code of conduct and, failing that, that we would introduce a mandatory code.

Minister, who is telling the truth?

Mr McGAURAN—I thank the honourable member for his question. As was announced on Sunday, 10 September, meetings will be held with fruit and vegetable growers and wholesale representatives to develop an enforceable code of conduct for the industry. The key aim is to develop a code, enforceable by law, that will provide growers with a transparency of contracts that many currently do not have. The government is determined to have a code that includes minimum terms of trade that are transparent and enforceable in law. Growers have the right to know whether the wholesaler is acting as an agent or a merchant prior to the sale. Other aspects being worked on as part of this process include an effective dispute resolution mechanism and the provision of clear market signals on price.

Growers, as well as those in the whole supply chain, including wholesalers and fresh markets, know who is acting in their best interests. They know who are the friends of producers as well as small business—the coalition parties, not the Labor Party.

Mr Gavan O’Connor—Mr Speaker, I seek leave to table the fruit and vegetable industry code of conduct press release by former Deputy Prime Minister John Anderson, which explicitly says, ‘We will impose a mandatory code of conduct.’

Leave granted.

Workplace Relations

Mr BRUCE SCOTT (2.49 pm)—My question is addressed to the Minister for Employment and Workplace Relations. Is the minister aware of proposals to introduce compulsory union bargaining into Australia’s workplace relations system? What impact might this have on Australia’s economic future?
Mr ANDREWS—I thank the member for Maranoa for his question. Indeed, I am aware of proposals by the Leader of the Opposition to introduce compulsory union bargaining in Australia. These plans, which are being pushed by the Leader of the Opposition and the union movement, both here in Australia and internationally, are basically a threat to the Australian economy.

The employers of Australia, who have created over 175,000 jobs in the last five months in Australia, are now staring down the barrel of a handover of control of their businesses to militant unions because of this proposal by the Leader of the Opposition. The reaction today in Western Australia, the home state of the Leader of the Opposition and member for Brand, could not be clearer. The Australian Industry Group said that this was one of the most extreme industrial steps ever taken by the Labor Party. The Western Australian Chamber of Commerce and Industry said that some Western Australian businesses—members from Western Australia should particularly note this—would struggle to survive under these proposals. This was all summed up in an editorial in the West Australian today headed ‘Beazley’s IR plan to hand back control to the unions’. The editorial writer said, inter alia:

It is evident from Mr Beazley’s pronouncements that he intends to hand back control of IR to the unions—a huge leap back into an inglorious past of union agitated industrial disputation. That is the summary of the West Australian and other business groups in that state of the consequence of this decision by the Leader of the Opposition to introduce compulsory union bargaining if he was elected to government.

This attack on the Australian economy is not just being carried out here in Australia; it is being carried out overseas as well. Indeed, the President of the Australian Council of Trade Unions, Sharan Burrow, has been using an international forum, the International Labour Organisation, to talk down the government’s reforms, business leaders and—

Opposition members interjecting—

Mr ANDREWS—They interject, Mr Speaker—

The SPEAKER—Order! The minister will not respond to interjections.

Mr ANDREWS—but do they agree with Ms Burrow going to the ILO and talking down the Australian economy? That is precisely what she has been doing.

Mr Bevis interjecting—

The SPEAKER—Order! The member for Brisbane is warned!

Mr ANDREWS—Not only was Sharan Burrow caught out breaching the ILO protocols in this attack. In her address to the International Labour Organisation she attacked Australian business leaders, saying that the government was ‘in the grip of the greediest business leaders’. That is what she said about people who have created 175,000 jobs here in Australia and taken the unemployment rate in this country to 4.9 per cent. Not only was she attacking business leaders in Australia in an international forum, badmouthing this country overseas; she also attacked the International Monetary Fund, the IMF—

Mr Ripoll interjecting—

The SPEAKER—Order! The member for Oxley is warned!

Mr ANDREWS—because it dared to support the labour market reforms in this country. She said of the IMF, because it supported what this government has done to create jobs and drive up wages in Australia, that it was morally bankrupt and economically short-sighted—again, talking down Australia and talking down the Australian economy overseas. These are attacks on the economy in this country.
You would be forgiven for thinking that Sharan Burrow thought that you know who, the Leader of the Opposition, was still the minister for employment in Australia. She must be thinking about the days when we had unemployment rates under the Labor Party still over 10 per cent. She must be thinking back to the days under the Leader of the Opposition as the minister for employment when real wages actually went backwards in Australia. One would be forgiven for thinking that Sharan Burrow was still living in the late 1980s and early 1990s, when this man here was responsible for destroying employment in Australia. Can I say this: it is one thing to have a reasoned debate here in Australia about these matters, but when people like Sharan Burrow go overseas and talk down Australia and the Australian economy that is simply a disgrace.

Mr Tuckey interjecting—

The SPEAKER—Order! The member for O’Connor is warned!

Oil for Food Program

Mr Rudd (2.54 pm)—My question is to the Minister for Trade. I refer to the minister’s instructions to Australia’s ambassador in Washington in June 2003 to go in at a senior level with the US administration to reject US allegations that the AWB had made corrupt payments to Saddam Hussein’s regime. Will the minister confirm that he instructed the ambassador to reject these allegations as ‘ludicrous, egregious, unacceptable and offensive’ and that this was consistent with AWB’s further written request to the government that same month that ‘the United States should expel delete deleted off’?

The SPEAKER—The member will come to his question.

Mr Rudd—Given by that time the government had already received 20 separate warnings about AWB payments to Saddam Hussein’s regime—

The SPEAKER—The member will come to his question.

Mr Rudd—on what basis did the minister instruct our ambassador to mislead our key strategic ally and cover up the AWB’s dealings with Iraq?

Mr Vaile—In response to the member’s question, all we ever expect of our ambassadors overseas is to ensure that Australian companies get fair treatment in these circumstances.

Mr Kelvin Thomson—So it’s okay to tell lies then?

The SPEAKER—Order! The member for Wills will remove himself under standing order 94(a).

The member for Wills then left the chamber.

Solomon Islands

Mrs Gash (2.56 pm)—My question is addressed to the Minister for Foreign Affairs. Would the minister confirm reports that Australia will be sending an envoy to the Solomon Islands to discuss our concerns with the commission of inquiry into the riots in April?

Mr Downer—I thank the honourable member for the question. I can confirm that the Australian government will be sending a special envoy in the form of the Deputy Secretary of the Department of Foreign Affairs and Trade, David Ritchie, to the Solomon Islands. He is going today, and tomorrow he will be meeting with the Prime Minister of the Solomon Islands, Mr Sogovare, and others. This will be an opportunity for Mr Ritchie to register serious concerns with the Solomon Islands government about its plans for a commission of inquiry into the April 2006 civil unrest in Honiara.

Australia is concerned about the intentions behind this commission of inquiry. We believe that it will prejudice the outcome of court cases against two imprisoned members
of parliament facing riot related allegations and it will endeavour to cast blame for the riots on the police response—which, by the way, included the Australian police—not on the people who were responsible for those riots taking place and, of course, those who funded those people. This would be completely at odds with the support for the rule of law and the genuine desire to work with RAMSI to improve security in the Solomon Islands, which the Solomon Islands government has said that it supports.

We are also very concerned about recent attacks on the judiciary in the Solomon Islands. The integrity of the judiciary is vital for the stability and prosperity of the Solomon Islands, including in the fight against corruption. There is no denying that corruption has been a major problem in the Solomon Islands over a long period of time, and RAMSI has been helping the Solomon Islands with this since July 2003. Australia and New Zealand as well as other countries in the region have extended considerable resources to support the Solomon Islands in combating corruption and to re-establish economic growth. We expect to see a renewed effort by the Solomon Islands government to fight corruption, rather than establishing procedures which will undermine the judiciary and undermine the work that is being done by the police. I also note that millions of dollars are expected to be spent on this commission of inquiry, and I am not sure where that money, in the end, is going to come from. But that money would be much better spent on the development of the Solomon Islands and on assistance to the people of the Solomon Islands.

We are in close consultation with other countries, especially the other partners in RAMSI, in relation to this commission of inquiry. Regional partners do not want a negative, uncooperative approach to the Solomon Islands, but we do need to see a Solomon Islands government willing to work cooperatively with regional partners.

**Oil for Food Program**

Mr Rudd (3.00 pm)—My question again is to the Minister for Trade. Will the minister outline the instructions he gave to our embassy in Washington in October 2003 in response to concerns raised by US senators that AWB was making corrupt payments to Saddam Hussein’s regime? Did the minister instruct our embassy to write to the US senators that Australia ‘rejects such allegations completely’ and ‘the allegation that AWB Ltd made illicit payments to Saddam Hussein’s regime is reprehensible’? Why did the minister continue to mislead our major ally in the war against terrorism and why, instead, was the government so compliant to written requests like this one from the AWB for ‘a strong political argument and relentless pressure’ to be put on the United States—

The Speaker—Order! The member will come to his question.

Mr Rudd—until the US yielded to this pressure to back off?

Mr Vaile—We did not issue any instructions, as alleged by the member for Griffith, other than to ensure that an Australian company was treated fairly if there was to be an inquiry held in the Senate in the United States.

**Education**

Miss Jackie Kell (3.01 pm)—My question is addressed to the Minister for Education, Science and Training. What is the government doing to ensure that parents receive accurate and clear information about their child’s progress at school, and are state governments meeting their obligations to provide plain English reporting cards?

Ms Julie Bishop—I thank the member for Lindsay for her question and I note her concern about this issue. Parents have a
right to receive information about how their child is performing at school and they should not be kept in the dark about their child’s progress. Unfortunately, too many school reports were using jargon and language that parents just could not understand. Phrases such as ‘working towards achievement’ or ‘preliminary achievement’ gave parents no sense of how their child was progressing. In response to parents’ concerns, the Howard government made it a condition of the schools funding agreement that parents would receive report cards that were in plain English and that they would be graded from A to E or an equivalent.

Every state and territory government signed up to this funding agreement and promised to deliver to parents plain English report cards. All states and territories have reported that they are tracking well in implementing these report cards except for New South Wales. I can appreciate why the member for Lindsay asked this question. Suddenly the New South Wales government is wavering in its commitment. This is because it is coming under inordinate pressure from the New South Wales Teachers Federation. The New South Wales Teachers Federation wants the New South Wales government to drop its commitment to plain English report cards. You would have to ask why the Teachers Federation would want parents to be denied information about their child’s progress. The answer lies in a public statement from the New South Wales Teachers Federation, where it was said that the new reporting system ‘has the potential to set up a system of ranking schools and then subsequently teachers’. The Teachers Federation is terrified that its members will have to be accountable for their performance. That is why it is demanding that the New South Wales government drop report cards in plain English for parents. They are putting their own interests before the interests of parents and students. I call upon the New South Wales government to meet its commitment to deliver on its promise for plain English report cards and to join with the Howard government in ensuring that parents have the information that they need to know about their child’s progress at school.

**Oil for Food Program**

Mr RUDD (3.04 pm)—My question, for the third time, is to the Minister for Trade. I refer the minister to this email released by the Cole inquiry, from AWB to the Acting Ambassador in Washington just prior to the 2004 federal election, which states that AWB had ‘briefed staff for Ministers Downer and Vaile and at their request lodged a formal request for intervention’—that is, to try and block the US congressional inquiry. Further: AWB have been advised today by Minister Downer’s office and Minister Vaile’s office that they endorse this approach.

Minister, why did you abuse Australia’s alliance relationship with the United States, given that six months before you had personally received a ministerial submission from your own department warning of what the AWB was up to, on top of the 33 other warnings your government had received by that time?

**Mr Downer interjecting—**

Mr Rudd—You are a fraud. You are a total fraud.

The SPEAKER—Order! The member for Griffith is warned!

Mr Beazley—Mr Speaker, on a point of order: why wasn’t the Minister for Foreign Affairs warned?

The SPEAKER—that is not a point of order.

Mr VAILE—I can only repeat that the government did not seek to stop any inquiry in the United States. We just sought to ensure that Australian companies were treated fairly
in that inquiry. I might add that the member for Griffith is referring to an email, a document, that has been released by the Cole inquiry. Can I point out that, of the 66 countries and the 2,000 companies involved in the oil for food program, I think Australia is the only country that has established this inquiry, the Cole inquiry, that has now sat for 65 days—

Mr Adams interjecting—

The SPEAKER—Order! The member for Lyons is warned!

Mr VAILE—with over 70 witnesses, thousands of pages of evidence—

Mr Bowen interjecting—

The SPEAKER—And so is the member for Prospect!

Mr VAILE—including that which has been used by the member for Griffith today. This government has done everything it can to ensure that a fair and open inquiry is undertaken. We look forward to the results of the Cole inquiry.

Indigenous Communities

Mr TOLLNER (3.07 pm)—My question is addressed to the Minister for Families, Community Services and Indigenous Affairs. Is the minister aware of further allegations of violence and crime in remote Aboriginal communities? Would the minister update the House on measures being taken by the federal government to overcome this appalling situation?

Mr BROUGH—I thank the member for Solomon for his genuine interest in this disturbing area. Unfortunately, since the allegations and the statements by Nanette Rogers from the Northern Territory DPP earlier in the year, there has been a steady flow of commentary both in the press and in direct correspondence to my department about very serious allegations of both sexual and violent crimes against women and children, in particular boys, in many remote communities. These are things that I am sure disturb all of us in this House.

I want to bring the House up to date with some of the steps that have been undertaken by the federal government subsequent to our summit into the violence and sexual abuse, where the federal government committed $130 million to try and address some of these serious issues with the provision of additional police, through bilaterals with states and territories and by instigating a national intelligence desk which will be operating from Alice Springs early next month. That will build on the success of the Central Australia intelligence desk dealing with interdiction of illegal substances, which has been very successful and again has been a commitment from the Howard government to those communities.

I was in Alice Springs last Saturday and I announced that the dog sniffer team that we had committed back in May had been accepted by the Territory government. I commend the Territory government for adding additional dog teams to this one so that there will be two stationed in Alice Springs, and through the APY lands in South Australia and through the central desert areas we can take further steps in removing individuals who are supplying illicit substances to these communities. There is much more to be done. The bilaterals are coming along. South Australia, Western Australia and New South Wales have signed up. We will be having further negotiations with the Territory, Queensland and the other states early next month.

Going back to the original question from the member for Solomon, he asked about whether I am aware of any further allegations. I am also aware of the allegation of the rape of a 12-year-old boy in Maningrida in Arnhem Land in the Northern Territory. This
was reported to some small extent, considering this is alleged to have occurred over a three-month period. A 12-year-old male was raped by five juveniles and five adults from that community. It raised with me the concern I have as to why this had not been more widely reported, as I am sure it would have been in almost any other part of the country. One of the conclusions I have come to is that unfortunately with Maningrida, like so many other remote Indigenous communities, people still require permits to go there. They need to seek the permission of a select group in order to be able to go directly to these communities. I know from personal experience that on occasions when the media has wanted to accompany—

Mr Wilkie—You name the child by naming the community.

The SPEAKER—Order! The member for Swan!

Mr Wilkie—You name the child by naming the community.

The SPEAKER—Order! The member for Swan is warned!

Mr Wilkie—That is outrageous.

The SPEAKER—Order! The member for Swan will remove himself under standing order 94(a)

The member for Swan then left the chamber.

Mr BROUGH—I think the member for Swan, as he makes his way out of the chamber, would like to know that what I am referring to here has been on ABC and has been in the Australian. Unlike so many in this House, he too has probably been unaware of this alleged heinous crime.

Ms Bird interjecting—

The SPEAKER—The member for Cunningham is warned!

Mr BROUGH—I believe that the time has come for us and the federal government to look at the legislation that we need to remove in the territories and some states where we require people to get a permit in order to be able to go to these communities. We cannot allow—

Mr Snowdon—That’s rubbish.

The SPEAKER—Order! The member for Lingiari!

Mr BROUGH—We can no longer allow the situation to occur where children are being abused, where these various serious crimes are being perpetrated on people and where the full glare of Australia’s public through its media cannot be brought to bear so that Australians demand that this no longer occur. The federal government has spoken with $130 million worth of commitments. We are working with the states and territories but it is time that the permit system be removed. I know the member for Solomon believes this. He called for it in July. I support his call for it—

Mr Snowdon—He doesn’t represent any of the communities.

The SPEAKER—Order! The member for Lingiari!

Mr BROUGH—and I hope that the states and territories will also support this call.

Mr Snowdon interjecting—

The SPEAKER—The member for Lingiari will remove himself under standing order 94(a).

The member for Lingiari then left the chamber.

Government members interjecting—

Mr Martin Ferguson—at least he doesn’t mislead the electorate like you on truth in labelling.

The SPEAKER—Order! The member for Batman is warned!
Workplace Relations

Mr STEPHEN SMITH (3.12 pm)—My question is to the Minister for Employment and Workplace Relations. When did the minister, his office, his department or the Office of Workplace Services first become aware that by June 2004, $618,000; by June 2005, $830,000; and by June 2006, $1.18 million had been transferred from the Cowra abattoir to a related company of the owner?

Mr ANDREWS—I do not have at my fingertips that information. If there is anything I can usefully add I will do so later.

Workplace Relations

Mr KEENAN (3.13 pm)—My question is addressed to the Minister for Workforce Participation. Would the minister advise the House what steps the government is taking to help mature age Australians move into work so we can sustain our economic prosperity and meet our workforce needs?

Dr STONE—I thank the member for Stirling for his question. He is most concerned, of course, about all of his constituents, particularly those of a mature age who are seeking work. We believe that everyone of working age in Australia has the right to work. We know that they may have different capacities. Some may seek part-time work. We will support them into a job.

I have to say, with mature age people—over 50—there is often a little more difficulty when they line up for a job interview. It is harder for some mature age job seekers to get their foot in the door. Their application may be dismissed because they are older and there is not a great expectation that they will be up to the work. In fact, we know that a mature age person often has life skills and interpersonal skills that make them absolutely highly productive and very important people in a workplace, especially as our population ages. We have a number of job vacancies now which very well suit mature age persons, whether the job is in retail, in manufacturing, in hospitality or tourism or in any of our services which cater for people of a similar age.

Let me say to you that we have about 130,000 people over 50 at the moment who are seeking employment. We have chosen to focus very much on assisting such job seekers, and so last year alone 73,000 mature age Australians were supported into work. They were supported through our Job Network, which has been specially tasked with this very important work. They have, for example, made sure they help people build up their resumes and job interview skills. They offer, through the Australian government, short-term wage subsidies. They can also help with work experience for someone who has perhaps been out of the workforce for a very long time. We can offer them work experience, for example, through Work for the Dole, and such work experience there is very much related to local workplace and workforce shortages.

We respect the needs of all Australians seeking work, as I say, and we have been most successful in our job placements, but it was not always the case. I want to tell you about 1993, when the Leader of the Opposition was in fact the minister for employment. He said mature age people were ‘condemned to a second-class life’. These were the unemployed under Labor in 1993. What was his solution? He was supported in government by the member for Lilley saying: ‘We’ve got a good idea. We’ll just pass these long-term or mature age unemployed straight onto the old age pension at age 55.’ That was the Leader of the Opposition’s solution when he was minister for employment—place 55-year-olds on the old age pension. Fortunately, his own side, in particular the member for Petrie at the time, described that idea as ‘stupid’ and ‘totally irresponsible’, so it did not go forward. But let me say to you
that we do not treat mature age Australians looking for work as second class and we do not condemn them to a second-class life; we have a very comprehensive mature age job seeker program, and it has been hugely successful.

Mr Howard—Mr Speaker, I ask that further questions be placed on the Notice Paper.

PERSONAL EXPLANATIONS

Mr BEAZLEY (Brand—Leader of the Opposition) (3.17 pm)—Mr Speaker, I wish to make a personal explanation.

The SPEAKER—Does the Leader of the Opposition claim to have been misrepresented?

Mr BEAZLEY—I do.

The SPEAKER—Please proceed.

Mr BEAZLEY—I was misrepresented by the Prime Minister quoting an article from the West Australian in which the Prime Minister said that I had adopted a position which said that, even if both parties to a particular individual contract wish that contract to continue, there could be an injection of a third party to disrupt that arrangement. I have never said any such thing. My office confirms to me that the conversation held by my office with the journalist was about another matter related to collective bargaining, not to individual contracts. To emphasise the point I will quote exactly what I said at the New South Wales conference, and it was this:

And finally, we will have sensible transitional provisions for existing AWA’s. If both the parties genuinely want them to continue for their agreed term, they will.

QUESTIONS TO THE SPEAKER

Mr Peter Brock AM

Mr GIBBONS (3.18 pm)—Mr Speaker, I have a question for you. I would like to preface the question by expressing appreciation for today’s acknowledgment of Peter Brock, but I am wondering whether other MPs will get the same opportunity to express their acknowledgment, as was the case last week.

The SPEAKER—I thank the member for Bendigo. That is not in the province of the chair. He may wish to raise it with the Leader of the House to see whether he might progress that.

Mr ABBOTT (Warringah—Minister for Health and Ageing) (3.19 pm)—On indulgence, I would be happy to accommodate that. The paperwork will be organised and we will move the relevant motions shortly.

Sub Judice Rule

Mr JENKINS (3.19 pm)—Mr Speaker, before I raise this matter with you I apolo- gise that I did not raise it as a point of order when Minister Brough was giving the answer to the member for Solomon’s question. I believe the actual matter that the minister went to in the latter part of his question, which caused a bit of disruption within the chamber, is a matter before the Darwin Magistrates Court. If I had realised that at the time, I would have raised with you the sub judice rule to see whether the matter being mentioned by the minister was being done so appropriately, because I believe that not indicating that there had been a charge and that the matter was before the court changed the way in which the chamber would have dealt with the matter.

The SPEAKER—I thank the member for Scullin. I have to admit that I was unaware of that, and I note the point that he raises.

AUDITOR-GENERAL’S REPORTS

Report No. 4 of 2006-07

The SPEAKER (3.20 pm)—I present the Auditor-General’s Audit report No. 4 of 2006-07 entitled Tax agent and business portals: Australian Taxation Office.

Ordered that the report be made a parliamentary paper.
Mr ABBOTT (Warringah—Leader of the House) (3.21 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 and I move:

That the House take note of the following documents:

- Migration Act 1958—Section 91Y—Protection visa processing taking more than 90 days—Report for the period 1 March to 30 June 2006.
- Section 440A—Conduct of Refugee Review Tribunal (RRT) reviews not completed within 90 days—Report for the period 1 March to 30 June 2006.

Debate (on motion by Ms Gillard) adjourned.

MATTERS OF PUBLIC IMPORTANCE

Medibank Private

The SPEAKER—I have received a letter from the honourable member for Lalor proposing that a definite matter of public importance be submitted to the House for discussion, namely:

The Government’s decision to postpone the sale of Medibank Private until after the next election.

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

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

Ms GILLARD (Lalor) (3.22 pm)—It is a pleasure to rise in this matter of public importance debate. Particularly after a question time that saw four Labor members excluded and 13 others warned, I am happy to join with my colleagues and debate this important issue. There are those on this side of the House who almost hanker for the days when the minister for health played the role of the enforcing bullyboy in this parliament. Now he has moved from that stage of his political career to a stage where we have seen him today, gibbering on in question time a bit like what we expect from the member for O’Connor, making no sense at all and gibbering on about socialists when he should be addressing the important issue of the sale of Medibank Private. But in his incomprehensible contribution today he did manage to say one thing that is important for the House and the Australian public to know. That is that the intention of this government remains to sell Medibank Private. No-one should be fooled about that; as well as the extreme industrial relations laws and other government proposals, the next election will be about whether or not the community wants Medibank Private sold.

It is interesting to go back just a few short months, to 26 April, when the minister for finance and the minister for health, full of swagger and arrogance and masters of the universe at that stage, were out there to tell us what was going to happen with Medibank Private. It was all full steam ahead then. These men were on a mission, and they knew exactly what they were doing. In the course of outlining their intentions for Medibank Private, they were telling us how quickly it was going to be sold. I directly quote the minister for finance, who said during this press conference where they were puffed up
with how clever they were at selling Medibank Private:

... the legislation will be introduced into the budget session.

This was a press conference in April; they were going to introduce the legislation to sell Medibank Private in the budget session. The minister for finance, Senator Minchin, goes on:

We would hope to complete a sale in financial year 2006/07. We have not made a decision yet on the method of sale. Broadly speaking, the options open to us are a trade sale or a public offering.

So there they were in April, ready to sell. They were going to put the legislation through in the budget session, fully on notice that they might float it or they might go down a trade sale route. Of course this is a government that actually knew in April that it wanted to sell the rest of Telstra. That was not a mystery to the government; that is not something that has just come upon it in a blinding flash. This is a government that knew it wanted to sell Medibank Private, and it was full steam ahead. It was going to sell. Yet today we have got leaked out on the front page of the Fin Review—

Mr Beazley—Make sure it’s the Fin Review, though.

Ms GILLARD—And make sure it is the Fin Review. And then finally they are forced to confirm, not by way of proud announcement and not by way of press conference with two ministers, TV cameras and a transcript. No, they just let it be known in quiet voices that actually they have deferred the sale until after the next election.

You might well be asking yourself what has changed since 26 April. And the answer is quite clear, because every day in every way the sale of Medibank Private has fallen apart in front of this government’s eyes. It has been almost the most ham-fisted attempt to get anything done that we have seen from this government to date, and there is a pretty high bar given some of the incompetent displays this government have engaged in. The first problem this government had was that they ran into legal difficulties about who owned Medibank Private. They did not even know, at the end of the day, whether it was clearly theirs to sell. The Labor Party had raised with the library the question of the legality of selling Medibank Private, and on a Friday the library released this parliamentary research brief entitled The proposed sale of Medibank Private; historical, legal and policy perspectives. This research brief comprehensively went through the arguments as to who owns Medibank Private and who is entitled to sell it and concluded that the government was in difficulties.

The government was in difficulties in selling all of the Medibank Private fund because the members of Medibank Private had an interest in that fund. So the first big problem for the government is this research brief that says, ‘Well, maybe it isn’t the government’s to sell.’ That happened on a Friday, and I do not think it should be a mystery to anyone in this place or beyond that by the Sunday the Treasurer was on national television musing about whether it would be best to float Medibank Private and whether it would be best to give some shares to policyholders. He said on the Laurie Oakes show on Channel 9:

Laurie, I think this could be an area where we could achieve some other policy goals, and I would actually like to see us very carefully examine the possibility of offering Medibank to the public, particularly to policyholders.

So the government runs into legal difficulties selling Medibank Private and it thinks, ‘How can we patch over that? How can we pretend to Medibank Private policyholders that they are actually going to get something out of
It has got the Treasurer out there saying, ‘I would quite like to float it and I would quite like to give some shares away to policy owners.’ Then the minister for finance, the minister for health and the Prime Minister say the same thing quite quickly.

So if it had just been a debate about whether they were going to rip policyholders off, they might have kept going with the sale. But that was not the only hurdle they encountered or the only problem that this government have encountered with the sale of Medibank Private. The second main problem they encountered was that their claim that the sale of Medibank Private was going to put downwards pressure on private health insurance premiums was increasingly becoming a laughing stock. That claim was viewed as increasingly laughable by anybody in the health sector who knew anything about the private health insurance market, and by Australians beyond that.

Of course, the nails in that coffin, putting to bed this absurd claim that somehow Medibank Private’s sale was going to be good news for private health insurance premiums, came from all sources. Most particularly, they came from noted economic commentator Terry McCrann, who basically said that, if you had an economics degree of any sort, you would see through this argument in one second flat. He said:

There’s also a particular problem with a float over a trade sale.

He was talking about the government’s preferred method of selling at that stage. He went on:

That would mean a company listed on the stock exchange which would have to make a profit for shareholders.

In contrast the entire private health insurance sector is today at least nominally non-profit.

So what does the introduction of a profit-based player in the private health insurance sector mean?

They all switch to profit-making? Or Medibank Privatised can’t compete?

So there you have it in the words of a noted economic commentator—someone who has been quoted time after time with approval by the Prime Minister—who is basically saying that privatising Medibank Private, particularly by way of float, is going to introduce a profit motive not only into Medibank Private itself but possibly more broadly across the private health insurance sector, and that is going to be bad news for premiums.

Of course, the voice of Terry McCrann is joined by others, including the AMA. I quote the President of the AMA, who said, ‘Higher premiums would be inevitable,’ as the new owner sought to maximise returns to shareholders. Even the Minister for Health and Ageing, who is at the table, when asked on the weekend that has just gone by, basically said with a shrug of his shoulders, ‘Well, you know, of course, if I had to put up Medibank Private premiums and give approval for that, of course I’d do that.’ Up those prices would go.

Ms GILLARD—Mr Abbott interjecting—

Mr Abbott—He is saying that is what he would do when it is in government ownership. Maybe, Minister, it is your dereliction of duty that is part of the problem. Then, of course, the minister for finance—

Mr Abbott interjecting—

The DEPUTY SPEAKER (Hon. IR Causley)—The minister will have an opportunity to reply.

Ms GILLARD—It is his dereliction of duty that I am coming to right now. Then, of course, the Minister for Finance and Administration issued a clarification on the weekend. He had to say to the Australian community: ‘When I was wandering around saying
that selling Medibank Private’s going to put downward pressure on premiums, I didn’t want anyone to actually believe premiums were going to go down. If you thought that, I’m sorry, because it’s not what I meant; they are going to go up.’

This is the state of the government’s case about what the sale of Medibank Private would mean for premiums. Everybody knows that the case they were putting was laughable and that the pressure from the Medibank Private sale on premiums would be to put premiums up for Australian families.

Finally, the political case for selling Medibank Private fell apart. There we have it: the legal case fell apart, the case about premiums fell apart and then finally the political case for selling Medibank Private fell apart when the government got the news through today’s newspapers that Australians did not want Medibank Private sold. In case there were any doubts in anybody’s mind, there it was on the front page of today’s newspaper: 63 per cent of Australians did not want Medibank Private sold. So incompetent has this government’s argument for the sale of Medibank Private been that nearly half of coalition voters did not want it sold. Even half of the people who, day after day, think the government is doing a good job did not want it sold. Even more disproportionately, other Australians did not want it sold. So the case for selling Medibank Private fell apart.

But what do the government do? They do not do the right thing. The right thing would have been to walk out today to a press conference with the cameras and say: ‘On 26 April, we got it wrong. Selling Medibank Private’s wrong. We will keep Medibank Private in government ownership.’ That is what they should have done. But of course that is not what they have done. What they have done is to put off the sale until after the next election in the hope that they can hide it behind that election, in the hope that people will vote at the next election having forgotten about this issue. The day after the election, there they will be, actioning the sale of Medibank Private. So no-one should be confused about this: the return of the Howard government means the sale of Medibank Private.

But the return of the Howard government could mean the sale of so much more. We had the minister for health on radio this morning. I thought he was coming out with some sort of red herring—but, if this is a red herring, it is a big one. He was out there today saying, ‘Why don’t we contemplate private management for public hospitals?’ But then he went beyond that and spoke about basically having public hospitals for profit and in the hands of the private sector. If you have a public hospital that is for profit and in the hands of the private sector, most people would call that a private hospital. Let me give you a flash. Let me give you a tip. Most people would call that a private hospital and most people would say that is about selling public hospitals to the private sector.

Let me quote the minister. Mr Abbott would not say if the plan was the first step to complete hospital privatisation or confirm whether the government expected hospitals under the plan to be run at a profit. But he said: ‘Obviously, if you are a private business, you want to make a profit. But how a private sector manager runs a public hospital would be very much up to the relevant state government to determine.’ So, next election, if this government is returned, sell Medibank Private and put a for sale sign outside every public hospital in this country. That is what this minister wants to do, and do not make any mistake about it.

It will not stop there. We know that this is a government that, despite its rhetoric, has
always wanted to do something to Medicare—to get rid of it, to abolish it, to confine it—and that is the other part of this agenda: sell Medibank Private and put a for sale sign on every public hospital. Then the next step, verified by none other than Wilson Tuckey, the federal member for O’Connor, would be the privatisation of Medicare. He said:

While selling Medibank Private will achieve a reduction in private health insurance costs, the real need is to include the services of the Health Insurance Commission or Medicare as we know it in the privatisation package.

This is a government that laughs uproariously at the stupid joke that it is the best friend Medicare ever had. Well, with friends like this, who needs enemies? A for sale sign on Medibank Private, a for sale sign on public hospitals and a for sale sign on Medicare—they are the health plans of this government if it wins the next election. (Time expired)

Mr ABBOTT (Warringah—Minister for Health and Ageing) (3.37 pm)—The sale of Medibank Private is an important topic and I will do my best to do it justice, even though it certainly has not had justice done to it to by the member for Lalor. Let no-one be under any doubt: this government is perfectly upfront and open about its desire to sell Medibank Private. Yes, members opposite can campaign from now until the next election on this issue, if they wish, and we will meet them every step of the way, because this government believes that privatisation is, generally speaking, a good thing where we have government owned enterprises engaging in business in a competitive market. That is why this government believes that Medibank Private ought to be sold; that is why this government believes that Telstra ought to be sold. That is why this government supported members opposite when they were in government when they thought that the Commonwealth Bank should be sold; when they thought that Qantas should be sold; when they thought that TAA, as it then was, should be sold; when they thought that CSL should be sold; and when they thought that Defence Industry should be sold. We supported them because these were all government business entities operating in competitive markets.

Our principle has been absolutely crystal clear from the late 1980s to the present time. We will stand on this principle and on this practice from now right through to the next election and, if we are lucky enough to be returned, we will happily keep standing on this principle for as long as there is breath in this government’s body. There is no deceit, no subterfuge and no confusion. This government believes that Medibank Private should be sold. We think that selling Medibank Private would be good for policyholders, good for taxpayers and good for the health sector generally. That is what we believe.

I am disappointed that the advice we have had from our financial advisers is that it would be best not to sell Medibank Private in close proximity to the sale of Telstra, and that is why we cannot do so until the second half of next year. But, as there will be an election then, we will be precluded from going ahead with this by the caretaker conventions, and that is why it now will not happen until 2008. But let everyone be in no doubt: if this government is returned, there will be a sale of Medibank Private early in 2008. Let there be no doubt about that whatsoever.

I accept that privatisation is often not popular but, unlike members opposite, sheer gutless populism is not the stock in trade of this government. We are prepared to do what we think is right. We accept that the general public might not immediately agree with us, but the fact is that we know, in the end, the public expects governments to make deci-
sions based upon principles, not on sheer gutless populism, which is what we increasingly get from members opposite.

Let me do my best to address some of the specific criticisms that were made by the member for Lalor in her MPI address. She suggests that there was something deceptive about the government’s April announcement that we intended to go ahead with the sale of Medibank Private. I was there with Senator Minchin. This morning I have had drawn to my attention aspects of the transcript, and it was always made crystal clear by Senator Minchin that the government’s first priority was the sale of Telstra and that the sale of Medibank Private was contingent upon the government’s arrangements to sell Telstra, which was our first and foremost priority. We knew we wanted to sell Telstra back then, but no final decision had been made. It is only in the last few weeks and days that we have had advice from our financial advisers and for those who are contemplating buying shares in what are currently government owned or government part-owned entities would be to keep a reasonable distance between these two floats.

The member for Lalor claimed that there was some kind of reprehensible or incompetent confusion as to who owned Medibank Private. There has never been any confusion in the government’s mind. We had clear legal advice from start to finish that we were perfectly entitled to sell Medibank Private and that the government clearly owned Medibank Private. I accept that members opposite, in running the kind of interference that they normally run, sought legal advice of their own. The instant they got that Parliamentary Library advice, we sought through a distinguished city law firm a QC’s advice, which confirmed the original advice that the government had.

The next claim from the member for Lalor is that the government’s strong belief that premiums would be under less pressure in a privatised Medibank Private than is currently the case is laughable. She says, ‘A privatised Medibank Private would inevitably rip the public off through unconscionable increases in premiums.’ The logic of the member for Lalor and some of the people whom she cited was that a private business is always going to be more expensive for purchasers than a government owned business because a government owned business does not have to satisfy, in her mind, the evil profit motive; it does not have to satisfy the need to provide a rate of return on shares. If that is the case, we should nationalise every private business in this country because every private business, according to the member for Lalor’s logic, is ripping off its customers because it is demanding a profit. Would it not be so much better if they were all in government ownership or run by charities or community groups of some sort so that we could dispense with the evil profit motive?

I certainly think there is a place for charities and community based businesses to operate in our market; but there is nothing wrong with the profit motive. The reason why the private sector is so consistently better than government operations at producing goods and services is that the efficiencies that the private sector is capable of enable it to make a profit and deliver the goods and to still do it significantly cheaper than government owned enterprises.

The logic of the member for Lalor, at the very least, would have the Commonwealth Bank renationalised, and then, because the Commonwealth Bank was renationalised, it would have lower interest rates and lower charges than the other banks, so we should nationalise them. Then we would nationalise Qantas and, because it would be so much cheaper to fly in a nationalised Qantas, the
opposition would say, ‘Let’s nationalise Virgin and all the other companies currently providing aviation services.’

I know the member for Lalor gets upset when it is said by members of the government that Labor are still socialists at heart, but the truth is that, on the logic that she has put forward today, they must be socialists at heart because, by definition, once the profit motive is involved prices go sky-high. That is the logic that she gave us this afternoon. Of course it is not true, and if it were true—

**Ms Gillard**—He’s calling Terry McCrann a socialist.

**Ms Burke**—And the AMA.

**Mr Abbott**—Now we have this concocted hilarity and manufactured conversation—the kind of organised discourtesy which has come to characterise this opposition, and there were some grotesque examples of it today with gross discourtesy and juvenile behaviour. Members opposite really should be ashamed of themselves for the sort of behaviour we have seen from them in the parliament this week. The idea that these people, with this constant caterwauling, are capable of being credible ministers and providing a responsible government for this country is really bizarre.

The member for Lalor keeps saying to me: ‘Can you guarantee that premiums will not rise if Medibank Private is privatised?’ Let me put this to her: can she guarantee that premiums will not rise if Medibank Private is not privatised? Can she guarantee that a government owned Medibank Private will never raise its premiums? Of course she cannot give that guarantee. It is a ludicrous guarantee to seek—and, if it is ludicrous to seek such a guarantee about a government owned Medibank Private, it is equally ludicrous to seek a guarantee about a privatised Medibank Private. This is typical of the kind of cheap, gutless populism which we are increasingly getting from members opposite.

There are certainly some instances where privatisation does not make sense. If we are talking about a quasi-monopoly or, in fact, a monopoly of an essential service, privatisation does not make sense, which is why this government did not go ahead with the privatisation of the Snowy Hydro even though Labor governments in Victoria and New South Wales wanted to pursue it. So this government certainly is not an obsessive privatiser; but where you have a government owned business enterprise operating in a competitive market it makes sense to privatisate it. That is why the former government privatised Qantas—and that has been good for Qantas and good for the airline industry. That is why the former government privatised the Commonwealth Bank—and that has been good for the Commonwealth Bank and good for the customers of banks. All we are doing is simply following the kind of responsible economic approach which members opposite used to follow in the days when they had some decent leaders like Bob Hawke and Paul Keating. We believe in privatisation not as a universal rule but as something which generally makes sense when you are talking about government owned enterprises engaging in business in competitive markets.

I will not read onto the record again the quotes from people like Mark Fitzgibbon, the head of NIB, the fourth largest private health insurer. I will not read onto the record again quotes from Francis Sullivan, the head of Catholic Health Australia—and the real author of Medicare Gold, I suspect—which the member for Lalor was happy to plagiarise. If he was good enough to write Labor’s policy for the last election, why isn’t he good enough to be taken seriously now on the subject of Medibank Private?
If anyone is under any doubt about the ability of a health fund in private ownership to give decent premiums and decent services, the second or third biggest fund is BUPA, a for-profit fund. No serious examination of the products, services and premiums offered by BUPA in its various guises would not confirm that it is operating just as well as the other funds.

What we have really seen from the opposition in this instance is entirely true to form. What we know is that, since 1996, this opposition have been almost chronically incapable of adopting any policy that is unpopular or that seriously offends any of their constituents. If it offends anyone, they are against it. In all of this, we have further confirmation of the judgement on the current Leader of the Opposition by the former Leader of the Opposition. Let us not forget that the current Leader of the Opposition has never won a contested ballot inside the Australian Labor Party. The last time members opposite had a choice between Beazley and Latham, they chose Latham. Whatever faults the former Leader of the Opposition might have had—and he sure did have a few—he had the current Leader of the Opposition to rights. I quote the former Leader of the Opposition:

The Beazley culture is scab-lifting—see an issue, a public sore, and try to lift the scab without offering your own remedy.

... ...

Under Beazley, opportunism always knocks—milking the issue in the media, maximising the public’s angst and then moving on to the next opportunity.

What we have seen today is more political and policy bankruptcy from an opposition utterly wedded to cheap, gutless populism. It is unworthy of this chamber and it is proof positive that members opposite do not deserve to transfer to this side of the House. (Time expired)

Ms BURKE (Chisholm) (3.52 pm)—The word ‘vandal’ comes to mind in this debate. The Liberals are institutional vandals. The Prime Minister and his willing henchmen will destroy any institution the public holds dear. The pathetic attempt by the Minister for Health and Ageing to deal with the matter of public importance demonstrated that aptly today. He could not even mount an argument to defend this decision, except to say that the government believes in privatisation. Those opposite believe in vandalising the institutions we as Australians hold dear—and that is the entire argument they have for selling off this Australian icon. The argument is very thin on the ground.

Let us talk about cheap populism for a minute. I think it was only a few weeks ago that Alan Jones got on the radio and said, ‘Snowy Hydro—don’t go there.’ Zippity doo da! The Prime Minister was in here: ‘We’re no longer selling Snowy Hydro.’ Cheap populism at its best. It was good then; let us think about it now. The populism is saying, ‘Do not sell this Australian icon.’

And why? What is the rationale? Where is the analysis for destroying this icon? It is simply an article of Liberal faith. It is simply their faith. Today’s MPI again deals with the Liberals’ desire to sell off a vital Australian institution. This time it is Medibank Private. When asked why he sought to sell off this government controlled, not-for-profit entity, the minister for health glibly said, ‘The government is instinctively in favour of privatisation.’ And he repeated it for the 15 minutes in which he spoke before I rose to speak today. He said nothing else!

What can those opposite sell off next? We have to ask ourselves what they are going to sell next, when the last of Telstra goes and Medibank Private falls under the hammer. That is what they are institutionally inter-
ested in. That is what their faith says. That is their ideology.

Schoolkids ask the best questions. When they come to visit in Canberra, they inevitably ask the question ‘What attracted you to one side of politics over the other?’ For me, it is a simple question to answer: ‘Labor believes in government and the Liberals do not.’ Why sign up to a mob of people who have no desire to govern. They want the free market to reign. Today we are being told that it is not just the free market; it is their financial advisers who are making the decisions now. The government does not make the decisions; their financial advisers do.

I thought we were here for the social good. If that makes me an old institutionalised socialist—and I am not sure I ever have been—the people in Victoria and from my factional politics would probably disagree on that one. But I thought that was why we were all here—for social policy, to create a better society for Australians, to govern.

Those opposite have no desire to govern. Selling off Medibank Private—taking government out of that field—again demonstrates that they do not want to govern. They do not want to have a say in this vital market within our institutions—within our social fabric and, indeed, within our economic fabric. Today we see again the desire by government not to govern—to sell off an asset because that is what they do. The sale, according to the minister for health and the minister for finance, would put downward pressure on premiums and create greater competition in the health insurance sector.

We have heard a lot about that. Way back before the 2001 election, the former minister for health, a man who used to occupy my seat in this place, claimed that the government’s policy would put downward pressure on premiums. That was the policy going into that election. We have not seen any of that. We have seen premiums rise since the introduction of that policy following the 2001 election—and rise by 40 per cent, well over the inflationary rate of the time.

This impacts heavily across the board. Over 42 per cent of Australians have private health insurance. In my electorate of Chisholm, as one particular lobby group is very wont to tell me, 52,803 people, or 62 per cent of my constituents, have private health insurance. I and my family are among them. Mind you, since my son was born and has had 12 surgical procedures, I am actually making money on my private health insurance, so I am all in favour of it at this personal point in time.

My constituents pride themselves on looking after themselves. They pride themselves on the fact that they can find, on average, $4,200 each year to keep up a basic cover, including hospital cover. If you take off the 30 per cent rebate, the figure for hospital cover may be about $3,000.

That is a fair whack out of anyone’s take-home pay, especially considering the ageing demographic of my electorate. Many people are self-funded retirees or pensioners, but they still maintain their private health insurance—and they proudly maintain that health insurance, because they say that they are looking after themselves. They are ensuring that, as they get older and their health needs become greater, they will be able to support themselves and will not be a burden on their families or society. They find that money somehow. They are on fixed incomes and it is very difficult. Every time prices go up, they feel it acutely—and prices have gone up and up.

Some time ago, I asked a previous minister for health about giving the guarantee of rises. Yes, the minister actually has to guarantee rises; they do not automatically happen. Companies do not decide to do it; they
have to get government approval. At one stage, I asked a question on notice and got back a great answer. I asked, ‘Do you ensure that the private health insurance providers guarantee ongoing coverage so that the current provisions they provide will still be provided after they give the rises?’ No, they do not guarantee ongoing coverage. On average, the government gives them an eight per cent rise each year and asks for nothing in return. It is just that the market dictates it! It is more than inflation.

Through this debate, we know that premiums will go up. It is not a matter of institutional knowledge or an article of faith; it has happened. It is the track record. This minister—this government—has again come out on record saying, ‘If they ask for increases, I’ll give them to them. There is nothing that will stop me.’

In my electorate there will be a disproportionate pressure—on the people within Chisholm who have taken out private health insurance year in and year out. The families in my electorate—where housing prices are fairly high and where mortgage increases cut deep into family reserves—are struggling to keep up payments on their health insurance. The mums I talk to in the playground when I go to get my kids after school are often faced with these choices. We have conversations on these matters as we stand around the playground.

Recently we had a debate about whether you keep private health insurance or get rid of it. Four thousand bucks goes a long way on your housing payment. Do you do that? But, as one mum said to me: ‘The first one has just got braces. London to a brick the next three are going to get them. Can I afford, out of our pockets, to pay for four kids having braces if I don’t have insurance cover?’ And that is extras as well. The cost is even greater than the $4,000 if you take out extras for dental cover on braces. People think about it. They know how it impacts on them. Again, this government does not care. Those opposite absolutely do not care about the pressure that this will put onto families at home.

But somehow they have gone cold on the sale. We have heard: ‘It is going to happen. Understand that. But it is not going to happen until after the next election, so you cannot completely beat us up with a baseball bat between now and then—but we will sell.’ Why have they gone cold? We have heard it is because of their financial advisers; or is it because 63 per cent of Australians say, ‘Don’t sell Medibank Private,’ or because they might be listening to people like Terry McCrann, who is not exactly a known supporter of this side of the House? He has powerfully made the simple point that, if you privatise something with a profit motive, the pressure has to go onto making those profits. Directors have duties to shareholders. Their duties state quite categorically—and, if you need any lessons on this, go and read some Hardie’s transcript—that directors have a responsibility to return a profit to shareholders. To create that profit, prices will inevitably have to go up. They just will.

I actually have an economics degree, so maybe I can come to this debate and say, ‘Yes, that is actually how it works in the market.’ The AMA has said prices will go up. Dr Nicholas Tonti-Filippini has said they will go up. This is a man who the minister relies on constantly. Nicholas Tonti-Filippini, who advises the minister on ethical issues, is opposed to the sale of Medibank Private and is a fairly heavy user of the system because he suffers from quite ill health. He says:

It is some form of right-wing idealism. That is all it is; it is just some right-wing idealism. There is nothing to the basis of this sale. It is just their article of faith. Premiums
will go up and families will be hurt. More importantly, the people they say they look after and we do not—self-funded retirees and pensioners—will be hurt. They are the ones who are probably in Medibank Private because they believed Fraser when he introduced it in 1975 and said that it was there to keep rates down. They probably believed him because they thought government owned institutions were actually there to help. We say: do not sell it, because it will only hurt the community we represent.

Mrs BRONWYN BISHOP (Mackellar) (4.02 pm)—I am very pleased that, in the last few minutes of her time, the member opposite returned to the subject of this matter of public importance, and that is the question of the government’s decision to postpone the sale of Medibank Private until after the next election. In the rest of her contribution, she seemed to start by telling us that we should not have any private health insurance—that it is a bad thing—and then reconsidered that and said there were people who thought it was a good thing because they could afford to have things that they otherwise could not afford. So it was a fairly confused contribution which did not really add very much.

The member for Lalor, who introduced the matter of public importance, was at pains to say that government owned institutions perform better than privately owned institutions, which is patently untrue. If there is one thing that I think we all should have learned from seeing the privatisation of various entities such as Qantas, the Commonwealth Bank and the variety of government owned institutions that the former Labor Party government privatised, it is that the principle of good commercial practice gives good outcomes.

From my point of view and the government’s point of view, the principles of free enterprise tell you what the business of government is, and the business of government is to do those things which the private sector either cannot or will not do and to provide for those who cannot provide for themselves. That is the business of government. The member opposite tried to say that the business of government is to make social policy and that is it. If we did that and we did not have an economic framework within which to operate, we could not afford to do those things. I was interested when the member for Chisholm said that she had an economics degree and that made her competent to make that observation. Perhaps she studied an economics degree in one of those quaint social contexts rather than in one where it is called hard economics.

I think it is important to look at the statement that the minister made in answering the speech of the member for Lalor. He very clearly said that the sale of Telstra, which is an $8 billion sale, is a priority for the government in terms of getting a satisfactory outcome. In addition, the advice that has been given to government, which it was quite prudent of government to seek, is that it would not be a sensible measure to sell Medibank Private at the same time—that is, competing for the funds of would-be shareholders. So the decision was made that the sale should be postponed until the Telstra T3 sale is complete. The simple time frame of an election due in 2007 makes the best timetable for the sale of Medibank Private to be 2008. That is a perfectly logical and sensible decision to have taken.

In the course of some of the contributions from the other side, we had a diatribe against any private ownership and the wickedness of selling a publicly owned institution, despite the fact that, as has been pointed out almost ad nauseam, there was no compunction when Mr Beazley was Minister for Finance about privatising a large number of publicly held firms, including Qantas and the Commonwealth Bank. They were, in their terms, quite
iconic; yet both those firms have gained magnificently from that privatisation in terms of how they are run and in terms of profitability.

There also seems to be this quaint notion that, if something is owned by the government or is a so-called not-for-profit entity, it must necessarily be interested in making losses. I find that a very quaint observation. The fact of the matter is, whether an entity is privately owned, commercially owned or non-commercially owned—being charitable, religious or community owned—it is interested in making surpluses. It is just that, when it is a commercial entity, those surpluses are called profits.

In our current competitive private health insurance industry, we have 38 competing funds, of which five are commercial or for-profit funds. Is the member opposite seriously arguing that all the rises in private health insurance, which occur from time to time, have occurred or have in part occurred because five of those funds are commercially run firms that make profits? Of course not. The fact of the matter is that health is a very expensive entity to deliver. The cost comes very much from the fact that more and more expensive procedures are being delivered more and more widely. That is the business of government: to make sure that we can run an economy in this country and run it in such a way that people who need those expensive procedures can have access to them.

This government is interested in improving the delivery of health services all the time. The press release of 26 April this year that announced that the government would sell Medibank Private also said that the government was looking at further developments in the delivery of new products through private health insurance that would enable people to have better management of certain types of chronic disease, better manage people at risk of getting chronic disease, or better manage people who would benefit from preventative procedures which could be covered by private health insurance and who, if the procedures were not done, would end up in hospital, where they would be covered under their private health insurance for that stay. In other words, the government is looking to sell Medibank Private because that institution does not need to be government run and can be better run in the private sector—or at least have good commercial practice—so that it can change those things that are covered by private health insurance to enable people to have better management of chronic disease or it can better manage people who are at risk of chronic disease.

Rather than this debate being about an ideological stance of the Labor members opposite—that public ownership is always better than private ownership and therefore nationalisation, presumably, as the minister argued earlier, is the natural extension of that argument—what we are looking at here from the government’s point of view is allowing the general public, because it would be a float and not a trade sale, to purchase shares in a floated Medibank Private, and that would put it in line with the five already existing commercially run health funds. Incidentally, I might add, there is absolutely no evidence at all that the five commercially run for-profit health funds charge premiums that are higher than those of the other health funds. There is no evidence of that at all, and there is no evidence at all that a privately owned Medibank Private would behave any differently from the already operating five for-profit firms.

In announcing that the sale will take place, the government is putting its mind to looking at what is the best method of delivering healthcare for individuals. Specifically, it mentioned a disease management program where clinically diagnosed chronic disease
could be managed in order to prevent hospitalisation. That item could be covered by private health insurance. I have already mentioned programs for chronic disease, together with people who are at risk of developing such disease. Diabetes and asthma come readily to mind as in that category of disease.

In concluding this debate I simply say that the evidence is that, where privatisation has taken place in a competitive market—not privatising a monopoly—the outcome is always seen to be beneficial for the economy as a whole. A well-managed economy enables us to make good policy for the delivery of such things as expensive health procedures that are needed by individuals to give them a better quality and longevity of life. I believe that is the duty of government to the people of Australia. *(Time expired)*

**The DEPUTY SPEAKER (Hon. IR Causley)—Order! The discussion is now concluded.**

**FRUIT AND VEGETABLE GROWERS**

Mr **GAVAN O’CONNOR** (Corio) *(4.12 pm)*—I move:

That so much of the standing and sessional orders be suspended as would prevent the Deputy Prime Minister from coming into this place and providing a full and proper explanation as to why the Nationals:

1. deceived Australian fruit and vegetable growers in the lead up to the last federal election by promising them a re-elected Coalition Government would introduce a mandatory code of conduct for the horticulture industry;
2. falsely promised the horticulture industry that such a code would give producers a fair deal on their terms of trade and on resolving disputes with produce buyers;
3. falsely promised that the mandatory code would apply to large supermarket chains;
4. falsely promised that a mandatory code would be introduced within 100 days of the 2004 election;
5. falsely promised that the Australian Competition and Consumer Commission would be given the power to enforce the mandatory code;
6. allowed the Minister for Agriculture, Fisheries and Forestry to mislead this place on 10 November 2005 by stating that the Government would honour its election commitment to introduce a mandatory code for the horticulture industry;
7. wasted taxpayers’ money by engaging consultants to develop the framework for a mandatory code it had no intention of implementing; and
8. has completely abandoned fruit and vegetable growers by allowing the Prime Minister to transfer responsibility for addressing the needs of these hard working Australians from the Nationals to a Liberal Minister.

The minister must come into this House and explain why they have broken this promise—

Ms **GAMBARO** (Petrie—Parliamentary Secretary (Foreign Affairs)) *(4.14 pm)*—I move:

That the member be no longer heard.

Question put.

The House divided. *(4.18 pm)*

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Question agreed to.

The DEPUTY SPEAKER (Hon. IR Causley)—Is the motion seconded?

Mr MURPHY (Lowe) (4.24 pm)—I second the motion. The opposition are getting the rough end of the pineapple—

Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.24 pm)—I move:

That the member be no longer heard.

Question put.

The House divided. [4.25 pm]

(The Deputy Speaker—Hon. IR Causley)

Ay es………… 76
Noes………… 55
Majority……… 21

AY ES

Abbott, A.J. Andrews, K.J.
Bailey, F.E. Baker, M.
Baldwin, R.C. Barresi, P.A.
Bartlett, K.J. Bishop, B.K.
Bishop, J.I. Broadbent, R.
Brough, M.T. Cadman, A.G.
Ciobo, S.M. Cobb, J.K.
Downer, A.J.G. Draper, P.
Dutton, P.C. Elson, K.S.
Farmer, P.F. Fawcett, D.
Ferguson, M.D. Forrest, J.A.
Gambaro, T. Gash, J.
Georgiou, P. Hartsuyker, L.
Hardgrave, G.D. Houghton, L.
Henry, S. Hockey, J.B.
Hull, K.E. * Hunt, G.A.
Jensen, D. Johnson, M.A.
Kelly, D.F. Kelly, J.M.
Ley, S.P. Lindsay, P.J.
Lloyd, J.E. Macfarlane, I.E.
Markus, L. May, M.A.
McArthur, S. * McGauran, P.J.
Mirabella, S. Moylan, J.E.
Nairn, G.R. Nelsen, B.J.
Neville, P.C. Pearce, C.J.
Prosser, G.D. Pyne, C.
Randall, D.J. Richardson, K.
Robb, A. Ruddock, P.M.
Schultz, A. Scott, B.C.
Secker, P.D. Smith, A.D.H.
Southcott, A.J. Stone, S.N.
Thompson, C.P. Ticehurst, K.V.
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. Sawford, R.W.

NOES

Adams, D.G.H.
Beasley, K.C.
Bird, S.
Burke, A.E.
Byrne, A.M.
Edwards, G.J.
Ellis, A.L.
Emerson, C.A.
Ferguson, M.J.
Garrett, P.
George, J.
Gillard, J.E.
Hall, J.G. *
Hayes, C.P.
Irwin, J.
Katter, R.C.
Lawrence, C.M.
Macklin, J.L.
McMullan, R.F.
Murphy, J.P.
O’Connor, G.M.
Pibersek, T.
Quick, H.V.
Roxon, N.L.

Andren, P.J.
Bevis, A.R.
Bowen, C.
Burke, A.S.
Corcoran, A.K.
Elliot, J.
Ellis, K.
Ferguson, L.D.T.
Fitzgibbon, J.A.
Georganas, S.
Gibbons, S.W.
Grierson, S.J.
Hoare, K.J.
Jenkins, H.A.
King, C.F.
Livermore, K.F.
McClelland, R.B.
McElhany, D.
O’Connor, B.P.
Price, L.R.S. *
Ripoll, B.F.
Rudd, K.M.

* denotes teller

Mr MURPHY (Lowe) (4.24 pm)—I second the motion. The opposition are getting the rough end of the pineapple—

Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.24 pm)—I move:

That the member be no longer heard.

Question put.

The House divided. [4.25 pm]

(The Deputy Speaker—Hon. IR Causley)

Ay es………… 76
Noes………… 55
Majority……… 21

AY ES

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Bailey, F.E. Baker, M.
Baldwin, R.C. Barresi, P.A.
Bartlett, K.J. Bishop, B.K.
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Gambaro, T. Gash, J.
Georgiou, P. Hartsuyker, L.
Hardgrave, G.D. Houghton, L.
Henry, S. Hockey, J.B.
Hull, K.E. * Hunt, G.A.
Jensen, D. Johnson, M.A.
Kelly, D.F. Kelly, J.M.
Ley, S.P. Lindsay, P.J.
Lloyd, J.E. Macfarlane, I.E.
Markus, L. May, M.A.
McArthur, S. * McGauran, P.J.
The House divided. [4.28 pm]
(The Deputy Speaker—Hon. IR Causley)

Ayes.........  56
Noes.........  76
Majority.......  20

AYES
Adams, D.G.H. 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.
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.
Hall, J.G. * Grierson, S.J.
Hayes, C.P. Hatton, M.J.
Irwin, J. Hoare, K.J.
Katter, R.C. Jenkins, H.A.
Lawrence, C.M. King, C.F.
Macklin, J.L. Livermore, K.F.
McMullan, R.F. McClelland, R.B.
Murphy, J.P. Melham, D.
O’Connor, G.M. O’Connor, B.P.
Plibersek, T. Owens, J.
Quick, H.V. Price, L.R.S. *
Roxon, N.L. Ripoll, B.F.
Sawford, R.W. Rudd, K.M.
Smith, S.F. Sercombe, R.C.G.
Thomson, K.J. Tanner, L.
Windsor, A.H.C. Vamvakinos, M.

NOES
Abbott, A.J. Andrews, K.J.
Bailey, F.E. Baker, M.
Baldwin, R.C. Barresi, P.A.
Bartlett, K.J. Bishop, B.K.
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Farmer, P.F. Fawcett, D.
Ferguson, M.D. Forrest, J.A.
Gambaro, T. Gash, J.
Georgiou, P. Haase, B.W.
COMMITTEES

Selection Committee

Report

The DEPUTY SPEAKER (Hon. IR Causley) (4.31 pm)—I present the report of the Selection Committee relating to the consideration of committee and delegation reports and private members business on Monday, 9 October 2006. The report will be printed in today’s Hansard and the items accorded priority for debate will be published in the Notice Paper for the next sitting.

The report read as follows—

Report relating to the consideration of committee and delegation reports and private Members’ business on Monday, 9 October 2006

Pursuant to standing order 222, the Selection Committee has determined the order of precedence and times to be allotted for consideration of committee and delegation reports and private Members’ business on Monday, 9 October 2006. The order of precedence and the allotments of time determined by the Committee are as follows:

COMMITTEE AND DELEGATION REPORTS

Presentation and statements

1 JOINT STANDING COMMITTEE ON TREATIES

Report 77: Treaties tabled on 20 June and 8 August 2006

The Committee determined that statements on the report may be made—all statements to conclude by 12:40pm

Speech time limits —
Each Member —5 minutes.

[Minimum number of proposed Members speaking = 2 x 5 mins]

2 JOINT STANDING COMMITTEE ON TREATIES

Report 78: Treaty Scrutiny —A Ten Year Review

The Committee determined that statements on the report may be made—all statements to conclude by 12:50pm

Speech time limits —
Each Member —5 minutes.

[Minimum number of proposed Members speaking = 2 x 5 mins]

PRIVATE MEMBERS’ BUSINESS

Order of precedence

Notices

1 Ms Roxon to present a bill for an act to amend the Freedom of Information Act 1982 and for related purposes. (Freedom of Information Amendment (Abolition of Conclusive Certificates) Bill 2006). (Notice given 11 September 2006.)

Presenter may speak for a period not exceeding 5 minutes —pursuant to standing order 41.

2 Mr Keenan to move:

That the House:

(1) notes that:
(a) as a result of the introduction of The New Tax System on 1 July 2000, every State and Territory will be better off in 2006-07 than they would have been had tax reform not been implemented;

(b) since the introduction of the GST in 2000-01, Western Australia has received around $18.4 billion in GST revenue and is estimated to receive a further $3.9 billion in 2006-07;

(c) the Western Australian Government has benefited the most from the mining boom among the States, collecting more revenue from royalties, including petroleum revenue from the North West Shelf, than any other State; and is expected to collect almost $1.9 billion in royalty revenue in 2005-06 and over $2.2 billion in 2006-07;

(d) the Western Australian Government collected $2.36 billion in 2005-06—almost double what it collected three years earlier;

(e) Western Australia is estimated to be the highest taxing State in Australia on a per capita basis in 2005-06 and is set to remain one of the highest over the forward years;

(f) as part of the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations, the States were to abolish nine State taxes; and

(g) the Western Australian Government has failed to implement this agreement and abolish all of these taxes; and

(2) calls on the Western Australian Government to:

(a) immediately abolish Mortgage Duty, Rental Duty and Non-real Conveyance Duty as agreed in the GST agreement;

(b) take immediate steps to reduce the burden on home buyers by substantially decreasing Stamp Duty and associated land charges; and

(c) reduce the overall tax burden on Western Australians from the highest in the nation. (Notice given 11 September 2006.)

Time allotted — 30 minutes.

Speech time limits —
Mover of motion — 5 minutes.
First Opposition Member speaking — 5 minutes.
Other Members — 5 minutes each.

[Minimum number of proposed Members speaking = 6 x 5 mins]

The Committee determined that consideration of this matter should continue on a future day.

3 Mr McClelland to move:

That the House:

(1) notes:

(a) the vital role that ADF personnel played in enforcing the Armistice for the Korean War, between 28 July 1953 and 19 April 1956;

(b) the professionalism and courage displayed by those personnel in dangerous circumstances, promoting the furtherance of Australia’s national interest;

(c) the findings of the Post-Armistice Korean Service Review (the Review), which stated under Recommendations 7B and 7C that veterans of this service should be awarded the Australian General Service Medal and Returned from Active Service Badge;

(d) the critical role that adequate recognition of service plays for the morale, retention rates and recruitment of current ADF personnel and the need to improve the transparency and reviewability of the medal system’s rule-making, as acknowledged by Recommendation 8B of the Review; and

(e) the moral obligation of providing all veterans with the support and recognition they deserve for their service and sacrifice; and

(2) calls on the Government to:

(a) adopt the recommendations of the Review to award the medals for Korean Post-Armistice Service; and
Tuesday, 12 September 2006

HOUSE OF REPRESENTATIVES

(b) give further consideration to Recommendations 8B and 8C of the Review, regarding improvements to the medal system. (Notice given 11 September 2006.)

Time allotted — remaining private Members' business time prior to 1.45 pm

Speech time limits —
Mover of motion — 5 minutes.
First Government Member speaking — 5 minutes.
Other Members — 5 minutes each.
[Minimum number of proposed Members speaking = 4 x 5 mins]
The Committee determined that consideration of this matter should continue on a future day.

4 Mr Price to move:

That the House:

(1) recognises the adverse affects of the federal Government's Workchoices legislation;
(2) take immediate action to protect working Australian men and women;
(3) take specific action to address the uneven nature of the bargaining position and pressures on young Australians entering the workforce for the first time;
(4) take note of the Howard Government’s agenda to drive down wages;
(5) condemns national employer JetStar for its practice of charging job applicants for the application process; and
(6) take action to prevent other employers from adopting similar practices. (Notice given 11 September 2006.)

Time allotted — 30 minutes.

Speech time limits —
Mover of motion — 5 minutes.
First Government Member speaking — 5 minutes.
Other Members — 5 minutes each.
[Minimum number of proposed Members speaking = 6 x 5 mins]
The Committee determined that consideration of this matter should continue on a future day.

5 Mr Slipper to move:

That the House:

(1) notes:
(a) the immense contribution to Australia, particularly through wildlife conservation, made by the late Steve Irwin;
(b) its appreciation to the late Steve Irwin for his dedication, energy and inspiration in helping to educate and inspire millions of Australians about our native wildlife and that of other nations through almost 50 documentaries and countless TV appearances;
(c) its appreciation to the late Steve Irwin for his positive impact on raising the appreciation levels among Australians for our native wildlife and for wildlife conservation;
(d) its appreciation to the late Steve Irwin for his public dedication to his family and the promotion of family values; and
(e) its appreciation for the late Steve Irwin’s positive impact on international tourism in Australia and subsequent economic benefits; and

(2) expresses sincere condolences to Steve’s widow Terri Irwin and their children, Bindi and Bob, and Steve’s father, on the sudden and shocking loss of her husband, their father and his son. (Notice given 7 September 2006.)

Time allotted — remaining private Members' business time.

Speech time limits —
Mover of motion — 5 minutes.
First Opposition Member speaking — 5 minutes.
Other Members — 5 minutes each.
[Minimum number of proposed Members speaking = 6 x 5 mins]
The Committee determined that consideration of this matter should continue on a future day.
Mr BARTLETT (Macquarie) (4.31 pm)—by leave—I move:
That the bills be referred to the Main Committee for further consideration.
Question agreed to.

Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.33 pm)—by leave—I move:
That the House take note of the statements of the Prime Minister and the Leader of the Opposition on the death of Peter Brock.
Question agreed to.

Mr Peter Brock AM

Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.33 pm)—by leave—I move:
That the bills be referred to the Main Committee for further consideration.
Question agreed to.

Mr Peter Brock AM

Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.33 pm)—by leave—I move:
That the House take note of the statements of the Prime Minister and the Leader of the Opposition on the death of Peter Brock.
Question agreed to.

MAIN COMMITTEE

Mr Peter Brock AM

Reference

Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.33 pm)—by leave—I move:
That resumption of debate on the statements of the Prime Minister and the Leader of the Opposition on the death of Peter Brock be referred to the Main Committee.
Question agreed to.

INDEPENDENT CONTRACTORS BILL 2006

Cognate bill:
WORKPLACE RELATIONS LEGISLATION AMENDMENT (INDEPENDENT CONTRACTORS) BILL 2006

Second Reading

Debate resumed from 11 September, 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:

whilst not declining to give the bill a second reading, the House notes that this bill:

(1) follows on from the Government’s extreme industrial relations changes which are a massive attack on living standards and living conditions, by removing rights, entitlements and conditions of Australian employees;

(2) also removes rights, entitlements, conditions and protections afforded to Australians in the workplace, whether employees or independent contractors;

(3) does this by allowing employees to be treated as “independent contractors”, thereby removing employee protections and entitlements and placing superannuation, tax, and workers’ compensation burdens on them;

(4) does this by removing protections from independent contractors who are in a dependent contract position and as a consequence in an unequal bargaining position;

(5) effects this by:
(a) continuing to use the common law definition of independent contractor as the basis of law without the guidance of statutory criteria;
(b) allowing employees to be treated as independent contractors in a sham way by ineffective anti-sham provisions;
(c) overriding State laws with employee deeming provisions;
(d) overriding State unfair contracts provisions which provide protection to employees, contractors and small business;
(e) overriding any future State and Territory owner-driver transport laws and putting existing State owner-driver transport laws at risk; and
(f) failing to provide any genuine protections for outworkers through ineffective outworker provisions, significantly weakening outworker entitlements; and
(6) introduces even more complexity and confusion into Australia’s workplace laws; and
(7) treats the Senate Employment and Workplace Relations Committee reporting on these matters with contempt by dealing with the legislation prior to consideration of its report."

Mr MURPHY (Lowe) (4.34 pm)—The High Court’s indicia of employment test includes such factors as whether the worker supplies and maintains tools and equipment, whether the worker receives paid holidays or sick leave and whether the worker is integrated into the hirer’s organisation. It is important to note that the court has not seen any particular indicia as determinative of a particular relationship. It should not take a legal expert to see that a contract can be fashioned in such a manner that legally deems a worker to be an independent contractor when, for all intents and purposes, they are properly seen as employees.

Nonetheless, should it take a legal mind to convince the government that the current common-law rules are too broad and inexact and cause an injustice to many so-called independent contractors, there are many out there whose advice the government should heed. Creighton and Stewart in the 4th edition of Labour Law have argued that:

... with a modicum of care and ingenuity it remains possible for businesses to obtain work from individuals who are virtually indistinguishable from employees, in terms of their close connection to the organisation and subordination to its managers and supervisors, yet whom the common law does not characterise as ‘employees’. This can in most instances be achieved simply through a well-drafted contract that is designed to look as much like a client’s contractor agreement as possible.

That is outrageous, but it does not end there. The New South Wales government’s submission to the Senate Employment, Workplace Relations and Education Legislation Committee quotes labour law professor Andrew Stewart as suggesting:

... any competent employment lawyer can take almost any form of employment relationship and reconstruct it as something that the common law would treat as a relationship between principal and contractor...thereby avoiding the effect of a wide range of regulation which is typically applicable only to employees, such as industrial awards, registered agreements, leave and superannuation legislation ...

I disagree with Professor Stewart on one point here. It would not take a competent employment lawyer to construct such a contract. Such is the flexibility and broadness of the common-law rules that even an incompetent one would do. I could quote this sort of legal advice for hours, but what I have quoted will suffice. This advice is damning stuff, but it has been wilfully ignored by the Howard government during its blind pursuit of ideological ends.

Non-standard work arrangements, including the use of independent contractors, should not flourish when their mere purpose is to avoid employment rights and responsibilities. Industrial relations legislation and policy should recognise that many independent contractors are only so in name, not in substance. Many are disguised employees who do not carry on their own businesses and are not their own bosses, but are working in a dependent way for another firm. Calling these people independent contractors should
not make them so if, in reality, they are in a form of disguised employment. They ought not be deprived of their entitlements, including leave and superannuation, on the basis of a fictitious construct, particularly when many of these workers are likely to be from a vulnerable demographic group, such as the unskilled or the young.

It is for this very reason that state governments have chosen to protect many so-called independent contractors from exploitation by introducing legislation that deems them to be employees. If it is good enough for unscrupulous employers to deem employees as independent contractors through the underhand use of contract law, it is good enough for state governments to deem independent contractors as employees through legislation.

These state deeming provisions redress the unequal bargaining power of certain categories of workers which may compromise their ability to negotiate fair working conditions. They ensure the likes of milk vendors, cleaners, blind fitters, bread vendors and painters are properly granted employee related entitlements. These state deeming provisions are also entirely consistent with international shifts to ensure employee protections are not lost through disguised employment.

Yet, in a monumental act of betrayal that sells out many ordinary Australian workers, the primary outcome of this bill is to override these deeming laws to appease critics that purportedly represent just 200 independent contractors and those that represent the big end of town. Clearly, it is necessary to remind government members of the International Labour Organisation's conclusions in its ‘Resolution concerning the employment relationship’:

Disguised employment occurs when the employer treats a person who is an employee as other than an employee so as to hide his or her true legal status ... The effect of such practices can be to deny labour protection to the worker and to avoid costs ... There is evidence that it is more common in certain areas of economic activity but governments, employers and workers should take active steps to guard against such practices anywhere they occur.

This is just what the state governments have done through their deeming provisions, yet the Howard government has the temerity to override them in this bill under the guise of protecting independent contractors. If the Howard government is really concerned that genuine contractors can be deemed employees, it ought to also be concerned that genuine employees are being fashioned as independent contractors.

Let us be clear about this bill. This bill is not about enshrining the status of independent contracting as a wholly legitimate form of work. It offers no guidance, let alone a solution, as to who a genuine contractor or employee is. Given the ambiguity surrounding this legal definition, this bill is not about protecting independent contractors. It removes the mechanisms in place which ensure many so-called independent contractors have access to the protections they are due.

The minister may contend that anti-sham arrangement provisions in the consequential bill will adequately protect workers who no longer have the protections of state deeming provisions. It would no doubt disappoint the minister that these anti-sham provisions are themselves a sham—sham by name and sham by nature. The explanatory material accompanying this bill states: A sham arrangement is an arrangement through which an employer seeks to cloak a work relationship to falsely appear as an independent contracting arrangement ...

However, the anti-sham provisions still draw upon the flawed common-law definition of an independent contractor.
As we have seen, there will be many occasions where workers are dependent on one source for income but still unwittingly find themselves under the law as independent contractors. These arrangements, though not reflecting the reality of the working arrangements between the parties, would not be considered a sham. They would only be a sham if the worker can establish that the contracting arrangement was really an employment arrangement and that the intended employer knew, or ought to have known, this. We know how easy it is to construct a contractual relationship out of what would appear to be an ordinary employment arrangement. It should surprise no-one if the most contrived contractual arrangement survives this test. Pity the poor worker when the odds are so stacked against him or her.

But that is not all. Even if by some legal miracle the worker passes the first hurdle, they then need to establish that the intended employer could reasonably have known that it was an employment arrangement. We have a common-law indicia of employment test that operates on a case-by-case basis and produces arbitrary and unpredictable outcomes. Other than with the most profoundly illegitimate arrangements, how could any worker unequivocally assert that a contractee knew, or ought to have known, they were entering into an employment relationship? How can a worker argue this with conviction when they too are uncertain about the true legal nature of the employment arrangements?

I suspect most workers would not have the time, money or capacity to bring this sort of litigation to a courtroom. I suspect the minister knows this also and has deliberately—not in error—left this deficiency in the bill. Let there be no doubt that the anti-sham provisions afford little by way of protection to dependent contractors or disguised employees.

There are many other objectionable parts of this bill, including the limitations of the new unfair contracts jurisdiction and the deceitful watering down of protections to out-workers and owner-drivers. Time does not allow me to go into these in detail. I will only comment that their continued existence in this bill is explicit confirmation by the Howard government that some workers and contractors require our protection. It is a disgrace that the government has chosen to destroy the fair and balanced protections previously provided by state legislation.

Before I conclude, I would like to make a comment about the feigned justifications that mask the real reasons for this bill’s existence. We hear that state laws, including deeming laws, create a barrier to the use of independent contractors in Australia. Yet we have not seen any haemorrhaging in the use of independent contractors in Australia as a result of the protections afforded by state governments to many unwitting independent contractors. We hear that contracting relationships are being dragged into the sphere of employment law by state deeming provisions, distorting the choice and intentions of the parties to a contract. That there have been so many cases taken to tribunals and courts by workers hardly bodes well for the minister’s claim that contractors wish to remain free of so-called ‘limits, constraints or barriers on the freedom to contract, the freedom to operate as a genuine independent contractor’. If this were true, we would not see shower repairers, forklift drivers and many other ordinary workers taking their cases to court.

When will the government accept that there is a proliferation of one-sided, unread and unbargained contracts in the workplace which often provide the catalyst for such legal action? When will it accept that the assumption that all contracts are entered into by choice or that all independent contractors
have consciously chosen their work arrangement has ceased to be a commonplace reality?

We know that for many workers the notion of independence is an illusion. We know that on many occasions the choice and freedom in their working arrangements have been not for them but for the benefit of those who hire and fire. It is not a choice when a worker is shown a range of contracts on a take it or leave it basis and is forced to choose the least obnoxious of them. The minister speaks of respecting the freedom to contract. Is the minister suggesting that a worker choosing between two highly undesirable alternatives chooses freely? I certainly would not.

With the Howard government’s Work Choices legislation and now the Independent Contractors Bill, that is what is being suggested, and the result is this: many workers are now being left to fend on their own without state based protections, without access to unfair contract provisions and without access to employee deeming provisions. Shamefully, those who are most likely to be affected by this bill are those who are least able to stand up for themselves. Yet again this government is seeking to appease the big end of town by tearing down protections for the workers who need them most.

While we are used to the Howard government attacking workers’ rights, it is unconscionable that it would do so with no substantive reasons in mind. The government has not made out its case for overriding state independent contractor laws. As I mentioned earlier, besides ideology which is fundamentally flawed this bill has nothing to recommend it. I cannot find any justification for the government’s refusal to allow the states to guard against what Professor Stewart has termed the ‘antisocial outcomes that can be expected from an unregulated labour market’. These antisocial outcomes include low wages when families are already finding it hard to make ends meet and excessively long working hours when families are already finding it hard to spend enough time together.

The Howard government must put aside its infatuation with a free market and govern for all Australians. Given the Howard government’s unjustified antipathy towards the union movement, it would not surprise me if it has ignored their well-founded calls for restraint with this bill. It also would not surprise me if this arrogant government ignores the call of the churches to protect workers. Reverend Harry Herbert from UnitingCare has stated that the bill ‘deprives many low-paid workers of adequate protection against exploitation’. For this and many other reasons, I oppose the bill and urge every member of this House to vote against this unfair legislation.

Ms ROXON (Gellibrand) (4.47 pm)—It is a pleasure to follow the member for Lowe on these matters, because many people on this side of the House are very concerned about the changes that are being proposed in the Independent Contractors Bill 2006 and the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006, which come hot on the heels of the government’s extreme Work Choices legislation coming into force in the community. Like our opposition to Work Choices, Labor opposes these bills.

As we all know, courtesy of the exorbitant advertising campaign the government has run, the government has been making all sorts of claims trying to sell their extreme industrial relations agenda to a sceptical Australian public. And, like many of the claims the government has made about their Work Choices legislation and what it will deliver, we see that those claims will be even further
from the truth if these bills become law. The government has been pretending for months and months that these changes will result in a simplified, unitary industrial relations system. They have been asserting that it will result in deregulation of the labour market. They have been claiming it will increase flexibility and freedom for workers. But these bills, like the Work Choices changes before them, do absolutely nothing of the sort.

Work Choices did not simplify the system. The government has not delivered a single national system. In fact, it has created more confusion and led to a High Court challenge by the states disputing the extent of coverage of this new law. I note that even if the government is successful in the High Court challenge, many categories of workers will not be or might not be able to be covered by Work Choices, and I dealt with this in more detail in my speech on the Work Choices bill. There is, of course, a natural limit to how far the corporations power can extend, even if the government’s arguments are successful in the court.

On top of this confusion, these bills will now add several more layers of complication. Ascertaining who will be covered by this new legislation, who will have the benefit of state protections continuing, who will no longer be covered by existing laws and what the myriad different standards are that will apply in different states puts the final nail in the coffin of the government’s now well-and-truly dead claim that their laws are simplifying anything.

It is the single biggest con on business to pretend that these changes will streamline anything. Look, for example, at just some of the variations and options that might confront a small business in trying to work out what laws will cover them. First they have to ask whether they are a corporation, which is easy enough to ascertain. Then they have to consider the other more dubious categories. How will not-for-profit organisations work? How will large not-for-profit organisations compare to small not-for-profit organisations? How will small businesses that are not incorporated, that do not operate interstate or that operate as partnerships interstate ascertain which set of laws they are covered by? Then, of course, there are all of the new distinctions in the ill-defined definitions in these bills. Who is an employee? Who is a contractor? What would be a sham contract? Who is a state protected contractor? And the list goes on and on.

The government claims that the Independent Contractors Bill will ‘enshrine and protect the status of independent contractors’ and ‘encourage independent contracting as a wholly legitimate form of work’. But in fact these bills will undermine the safeguards currently enjoyed by independent contractors and significantly weaken protections for outworkers. Rather than deregulating the labour market, the bills will introduce a highly technical and complex regulatory framework to the independent contractor sector. The content of the regulations will weaken protections, but ascertaining who is covered by which regulations and rules is much harder. The bills may also create an environment that encourages employers to reclassify their employees as independent contractors and thereby avoid their obligations altogether. On top of all of this, the regulation-making power that we see in these bills means that all sorts of other exemptions and exceptions could be made quietly and without the usual scrutiny of a normal piece of legislation.

Before I address all of these concerns, let me first explain the broad scope of the legislation and the sectors that it covers. The government has claimed in the past that virtually all workers would be covered by Work
Choices, but the very existence of these bills shows that that was always untrue. The exact numbers have always been difficult to obtain, but estimates as to the total number of independent contractors operating in Australia vary from 800,000 to 1.9 million people. This represents between eight and 20 per cent of Australian employed persons—a rather large number of workers that the very existence of these bills demonstrates are not covered by Work Choices.

Independent contractors are predominantly located in the trucking industry and, as outworkers, in the textile, clothing and footwear industries, but are in a range of other industries as well. I must note, however, that these two groups have a very significant presence in my electorate. Because of the heavy industry in my electorate and the proximity and access to the river, the docks and the freeways, the trucking industry has had a strong presence in the area. ABS statistics show that over 3,000 people in Gellibrand are employed in the various industries categorised as transport and storage. While managing safety and traffic noise is always an issue for residents, no-one doubts that it is extremely important to ensure that the many workers in the industry who live and work in our area are adequately protected, not exploited and not left in unfair or vulnerable positions. Existing protections are important to provide reasonable working conditions and also to maintain the financial viability of the scores of owner-driver businesses in my electorate—businesses that would otherwise be forced to cut corners or be squeezed out of the industry. As we all know in this House, cutting corners in the trucking industry is to no-one’s benefit. It compromises the safety of workers and it compromises road safety for the wider community. No-one wins. These bills, as I will discuss, significantly increase the pressure on these drivers at great risk to themselves and to all of us.

The textile, clothing and footwear industries also have a notable presence in my electorate of Gellibrand. Unlike the transport sector, figures on the number of TCF workers and outworkers are very difficult to obtain, but there have been in the past and still are a number of large textile companies in my electorate. Unfortunately, some of them have not seen good times recently. But there are also many women in our community from diverse ethnic backgrounds who work from their own homes as pieceworkers. These women in particular are already in a vulnerable and exploited position, and these bills will do little to assist them. Rather, the bills will significantly weaken outworker entitlements, removing independent contractors from protections under state industrial laws. These workers will be even more exposed than they already are, losing entitlements such as sick leave and annual leave.

I will now address in more detail some of the particular concerns that I have with these bills. It is Labor’s strong view that these bills will undermine the safeguards currently enjoyed by independent contractors, increase uncertainty for independent contractors and introduce a highly technical and complex regulatory framework to the independent contractor sector. The independent contractor’s bill accepts the common-law definition of the term ‘independent contractor’, whereby a person is engaged under a contract for services without the legal status or protections of an employee. As such the independent contractor, rather than an employer, is liable for aspects of their working life such as superannuation and taxation responsibilities. The primary principle underpinning the bill is that independent contracting relationships should be governed by commercial law not industrial law, and it seems that the government’s intention is that
as many employees as possible be categorised as independent contractors, thereby shifting responsibilities from employers to individuals. So it is clear the bill’s reach goes well beyond existing contractors to those who might currently get the benefits and protections of employees.

Like Work Choices before them, these bills will create an even more confusing system where businesses and employees will not know what laws they are covered by and what conditions they retain. When the government introduced its extreme Work Choices bill, I noted—as I have mentioned already—that the promise of a single national system, without support from the states, was a myth. The Independent Contractors Bill offers one more demonstration of where the federal government, despite its grand plans, is unable to deliver a single coherent system. Instead it is a bit of federal law here and a bit of state or territory law there all mixed in together. How the government thinks this will lead to greater efficiencies for business is beyond me.

Part 2 of the bill, for example, overrides all existing deeming provisions contained in state industrial legislation which deem certain categories of independent contractors to be employees and all existing provisions granting employee related entitlements on independent contractors. It therefore seeks to override the state and territory provisions on issues such as remuneration, leave, hours of work and disputes. Yet, confusingly, both bills simultaneously retain state and territory provisions relating to issues such as discrimination and occupational health and safety. Again we are faced with duplication of regulation and uncertainty for business, with one law applying in one area and a different law in another. The bill means that independent contractors can no longer access state unfair contracts laws.

Equally complex are the transitional provisions under part 5 of the bill. These provisions attempt to create transitional arrangements for people once recognised by state and territory laws as employees—and consequently afforded employee style entitlements—who are regarded under these bills as independent contractors at common law. The bill provides a complex structure of transitional arrangements, which stretch over three years, to define just what entitlements such people will continue to hold. So for that period of time it is going to be even more difficult for businesses and individuals to know what laws they are to have the protection of.

In relation to owner-drivers, the bill is just downright weird. It recognises that existing laws in Victoria and New South Wales will continue to exist but ignores the pending legislation in WA and the ACT. It even prevents states from legislating protections in the future. So it acknowledges—it even concedes—that owner-drivers are in a vulnerable position without the Victorian or New South Wales protections, and therefore maintains them, but it is happy to let there be a different standard in other states; it is not only happy to allow it, but it absolutely prohibits any action then being taken in the future by other states. So these bills guarantee that there will always be a differential between states in the owner-driver area. You have to ask, ‘Where is Mr Howard’s single system now?’ Soon I am going to go in more detail to the situation with owner-drivers, because it is something that I think needs specific attention. But like the Work Choices legislation, as I have already said, this bill is not about deregulation or streamlining; in fact it is all about over-regulation and politics.

One of the most worrying aspects of the bill is the significant weakening of protection for outworkers. Part 4 of the bill purports to
protect outworkers because it provides a default minimum rate of pay of $12.75 per hour. However, that part excludes all the broader protections that were in existence for outworkers in state laws and federal awards, like holiday entitlements, overtime, superannuation, workers compensation and redundancy pay.

A so-called contract outworker under the bill will not be entitled to any of the minimal and inadequate protections maintained through Work Choices other than a basic minimum rate of pay. In states which do not have outworker laws, this will be the only protection for outworkers. In states which do have outworker laws, only a tiny subset of these laws would remain effective. This creates an easy loophole for unscrupulous employers to argue that outworkers are contract outworkers and thereby avoid federal protections.

These cognate bills are simply designed to allow workers to be further exploited, a particularly worrying thing in an area where we know that workers have already been seriously exploited. For workers in the textile, clothing and footwear industry, where outworkers predominate, existing poor conditions such as low rates of pay, irregular payment and substandard working conditions will be exacerbated by removing even the most basic of protections.

I think it is important to note in this place that the Senate committee unanimously exposed the government’s superficial rhetoric about protecting outworkers and recommended that the whole of part 4 be omitted. The government senators themselves stated that these changes ‘serve no useful purpose’. Even the government members acknowledged the ridiculous position that is being put forward by part 4 and proposed that it should be omitted.

I have already noted briefly that these bills will create an environment encouraging employers to reclassify their employees as independent contractors and thereby avoid their obligations. Of course this is bad for workers, but it is also not good for businesses. They will be forced to compete in a race to the bottom as employers increasingly transfer their employees, who no longer will be protected by state and territory deeming provisions, over to independent contractor status to avoid their responsibility for worker’s entitlements and to lower their costs. Even good bosses who may not want to take this approach will feel pressure to change, as they will otherwise lose a competitive edge against those businesses that are doing the wrong thing. It will become a downward spiral where workers become the biggest losers.

I want to come back to the question of the owner-driver issue. I have noted that these bills are just simply weird in this area. I note the different treatment for different states and the inconsistent views that the government has in this area. If, despite our opposition to these bills, this legislation does go through the parliament, one of its few positive aspects is that it preserves, at least for the time being, existing state arrangements and protections for owner-drivers—in New South Wales, under chapter 6 of the New South Wales Industrial Relations Act 1996 and, in Victoria, under the Owner Drivers and Forestry Contractors Act 2005.

But, as mentioned above, this concession recognises that owner-drivers are a unique and particularly vulnerable group who require a basic level of regulatory protection to avoid exploitation by transport operators. Once this recognition has been made by this concession, surely even the Howard government must concede that it needs to go further. Shouldn’t owner-drivers in all states be covered?
But, even if this is a small portion of good news, this reservation is only temporary. The fact that these bills allow New South Wales and Victorian legislation to continue is only a temporary protection. The legislation itself says that this part has to be subject to review in 2007. That is right: 2007 is only next year. Given the election is due in 2007, it seems very likely that there will be an immediate review after the election—and the mean and tricky Prime Minister, as he has been described by his own, is making no promise that this protection will continue if he again secures government.

So, even in the one aspect of these bills where we see there might be some sensible protection maintained, the government is only doing that with a sleight of hand. It is some sort of political arrangement which has been made. It recognises the value of those bills. It excludes other states from taking any action to get similar protection, and it does not even guarantee beyond the next election that those protections will stay in place in those states.

I do not think the Prime Minister is going to be able to convince owner-drivers in Victoria and New South Wales that this is a good enough guarantee or protection for them, and I am sure he will not be able to convince all the owner-drivers in other states, where legislation might have been forthcoming—as we know, it has been foreshadowed in the ACT and WA—that it will be good enough for them. So it seems to me that the one small provision which might provide some protection if you take this action is built on very flimsy ground.

Ultimately, I think the only conclusion you can be left with regarding these bills is that they are a total mess. There is not one system for employment regulation, as the government has proposed. There is not protection for individual workers, owner-drivers or contractors. There is not deregulation for business. There are confusing and inconsistent state exemptions and there are complex transitional provisions. All in all, it is a confusing, complex mess with no discernable benefit to either individuals covered by the system or businesses operating in these fields.

The working men and women of Gelli-brand—the heartland of industrial Melbourne, in the inner west of Melbourne—deserve much better than these bills. They risk being attacked in all directions: losing their entitlements, losing protections and losing rights, making them even more insecure in their jobs. In government, Labor will tear up the extreme Work Choices laws and these laws too, as there is nothing good about them. They harm families, young people and ordinary, regular working Australians who are just trying to make ends meet. These laws must not remain on the statute books.

**Dr Emerson** (Rankin) (5.06 pm)—At the outset, I would like to note that there is a grand total of three government speakers and 23 opposition speakers on these very important bills, the Independent Contractors Bill 2006 and the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006. That tells us that these bills are motivated purely by political considerations, by an attempt to deunionise important sections of the Australian workforce. If this legislation were truly seen to be in the interests of the working people of Australia and the interests of the industries it affects, more than three government speakers would have had the drive and enthusiasm to make such statements in this chamber. But they have not, because they know that this legislation is nothing more than a political exercise—an exercise in ideology.

Labor supports genuine independent contractors—that is, those workers who freely...
choose to be contractors. Labor, at the same
time, supports the right of genuine contrac-
tors to be represented by a union. Here, as on
so many occasions, Labor diverges strongly
from the position of the coalition govern-
ment, because this government does not re-
spect the right of working people in this
country to be represented by a union. This
government knows that, if it can deunionise
the Australian workforce, it can achieve its
ultimate goal of destroying the Australian
Labor Party. It knows of the strong bonds
between the ALP and the union movement. It
knows that the true target in so much of this
legislation is in fact the ALP, because the
Australian Labor Party was born of the union
movement and, very proudly, represents the
interests of working Australians and repre-
sents the right of working Australians to be
represented by a union.

The truth of the matter is that many em-
ployees are either enticed or coerced into
entering into sham contractor arrangements.
They can be employees on Friday and then
turn up to work on Monday as contractors,
when, in truth, the relationship between the
employer and the employee has changed not
in substance but only in appearance.

Let me deal with the enticing of employ-
ees into becoming sham contractors. That is
done primarily through the income tax sys-
tem because contractors, as distinct from
employees, can claim extra tax deductions
and be in a more beneficial tax position
overall. They can, for example, put them-
seves in a position of being able to claim as
an expense travel to and from work. They
can put themselves in a position of being able to claim home office expenses and, in-
deed, more readily, of being able to split in-
come between themselves and their partners.

The government recognised the revenue
leakage associated with sham contractor ar-
rangements in its consideration of the Ralph
Review of Business Taxation. As a conse-
quence of that Ralph review, recommenda-
tions were made to introduce into the parlia-
ment legislation dealing with the alienation
of personal services income. That is a fancy
set of words to describe legislation that
would crack down on contractor arrange-
ments that were shams designed purely to
minimise tax.

As a result of the Ralph report, the Treas-
urer picked up the recommendations and, in
a letter to the then shadow Treasurer that was
negotiated across the table—I know that be-
cause I was also at the table at the time—he
indicated that he was prepared to sign a letter
to say that he would move decisively against
sham contractor arrangements through legis-
lation dealing with the alienation of personal
services income. As on so many other occa-
sions, the Treasurer failed to keep his word.
His word was recorded in a letter signed by
him. He showed no shame after being rolled
in the cabinet by the Prime Minister and the
Minister for Employment and Workplace
Relations, who had one objective and one
objective only—to continue the deunionisa-
tion of the workforces engaged in building
and construction, in transport and in other
occupations in our country. So the Prime
Minister and the minister for workplace rela-
tions indicated that they were more than pre-
pared to use taxpayers’ funds to achieve their
goal of deunionising the workforce in those
industries. In the process, they rolled the
Treasurer, who came back into the parlia-
ment with a very ineffective piece of legisla-
tion called the alienation of personal services
income. It was watered down very substan-
tially from that which had been foreshad-
owed in the government’s response to the
Ralph review.

It is worth reviewing what has happened
in terms of the enforcement of that legisla-
tion, which passed through this parliament
several years ago. Documents obtained under
freedom of information legislation reveal that the tax office has never reviewed the operation of that legislation. It appears that the tax office has not audited anyone—or virtually anyone—who has been able to claim expenses under what could be sham contractor arrangements. More than 99 per cent of independent contractors have self-assessed, so there is no real picture of the ongoing revenue losses associated with sham contractor arrangements, but they could run into billions of dollars—such is the zeal and determination of the Prime Minister to deunionise the transport industry and the building and construction industry. The alienation of personal services income legislation is sham legislation to deal with sham contractor arrangements.

I have dealt with the matter of enticing working people into converting to sham contractor arrangements; I now turn to employers coercing employees into becoming sham contractors, and that indeed does happen. It includes sacking workers and telling them to come back to work as independent contractors if they want a job.

Under these arrangements, employees who become sham contractors are obliged to provide for their own superannuation so that the employer no longer has that responsibility; employees who become sham contractors are obliged to provide for their own insurance, and employees who become sham contractors are obliged to provide for their own workers compensation if they have an accident at work. This legislation generally removes the right of unions to represent employees who are forced into sham contractor arrangements. A lawyer can represent such people, an association can represent such people, but a registered employee organisation cannot represent such people—that is, a union cannot represent such people.

There is an exemption: the Transport Workers Union representing owner-drivers in New South Wales and Victoria. That exemption is a result of the hard work and determination of the Transport Workers Union to secure an exemption from this legislation. That came about not out of the good grace of this government—not because this government thought it was a good idea—but because this government was very apprehensive about what the Transport Workers Union might be able to achieve if it took another course of action to persuade the government to make these exemptions.

The irony is that, if the Transport Workers Union quite legitimately and correctly has been able to come to arrangements in New South Wales and Victoria that protect the interests of working people while at the same time ensuring a viable industry and the government has seen fit to make those exemptions, that tells us the story—that is, that this legislation is unnecessary. Life will go on in the transport industry in New South Wales and Victoria, but the government has insisted that life will not go on in the transport industry in my home state of Queensland or in the other states of Australia. So the government did not provide those exemptions out of good grace or common sense but because it felt it had no real political alternative but to do so.

This legislation is an integral part of the government’s single-minded desire to deunionise the Australian workforce. That desire is expressed more comprehensively in its Work Choices legislation, to which I now move based on the second reading amendment. It is called Work Choices, but it provides no choice for employees. In a most Orwellian way, it withdraws those few choices that remained for employees following the legislation of 1996 and subsequent second-wave legislation. The titles of all those bills that came through this parliament were very Orwellian—the fair dismissal bill,
the fair termination bill and the better bargaining bill, which removed bargaining rights from working people. I could go on, because there were 13 such bills.

In removing the choice of employees to bargain collectively and to be represented by a union in such enterprise bargaining, the government has turned its back on enterprise bargaining in Australia. Yet in 1996 and all the way through, while it was trying to get these Orwellian pieces of legislation through the parliament, the government claimed its support for enterprise bargaining. The government pretended that it was its idea. The government tried to disguise the fact that enterprise bargaining was introduced by the Labor government in 1993 as a natural evolution of the system as we moved from the highly centralised wage-fixing system inherited by the incoming Labor government in 1983 from the then coalition government, the Treasurer of which is now the Prime Minister of Australia. It was Labor that inherited a highly centralised wage-fixing system that had resulted in wage increases of around 14 per cent per annum in the last couple of years of the Fraser government. Is it any wonder that enterprise bargaining was introduced by the Labor government in 1993 as a natural evolution of the system as we moved from the highly centralised wage-fixing system inherited by the incoming Labor government in 1983 from the then coalition government, the Treasurer of which is now the Prime Minister of Australia. It was Labor that inherited a highly centralised wage-fixing system that had resulted in wage increases of around 14 per cent per annum in the last couple of years of the Fraser government. Is it any wonder that the incoming Labor government inherited double-digit inflation and double-digit unemployment?

You do not hear the word ‘stagflation’ used that much these days. This is a term that was used during the late seventies and early eighties to describe the state of the Australian economy—that is, stagnation with inflation. That was a result of the policies pursued by the Fraser government and the then Treasurer of this country, now the Prime Minister of Australia. There was one other variable that is important to the quality of life of Australians that was also well and truly into double digits. I wonder if members in this chamber can remember what that variable is: interest rates. The now Prime Minister of Australia, as the Treasurer of Australia, holds the record for the highest interest rates in at least a quarter of a century. On 8 April 1982, 90-day bank bills reached 22 per cent. That was the cost of borrowing money in those hyperinflationary days.

So, when the Prime Minister talks about high interest rates under Labor, the truth is that he holds the record. The only reason mortgage rates were not higher is that they were capped by law, which meant that people with lower incomes were absolutely excluded from owning a home. They did not have the credit rating that banks required in order to lend them the limited lending funds available.

That was the economic situation inherited by the then Labor government, which dealt with it by reducing inflation, interest rates and unemployment. It did that initially through various incarnations of the accord and then gradually moved to a less centralised system and to enterprise bargaining. In the process, Labor did seek and achieve wage moderation.

We hear from this government—daily—that real wages have increased by 16 per cent under the coalition but increased by only one per cent under Labor. What happened during that period of the Labor government? Labor inherited an industrial sector that was on its knees—that was uncompetitive and that needed some wage moderation to help it reorient itself from a highly protected, narrow domestic market to one where it could compete in the international market, on the global stage. It was therefore important that wage moderation be achieved—to boost the competitiveness of those industries that had lost all competitiveness under the previous coalition government.

The trade union movement of this country cooperated in moderating wages. Instead of condemning the trade union movement, this government should thank it for boosting the
competitiveness of Australian industry and helping the previous Labor government in a reform program—cooperating in a reform program that has set Australia up for 15 years of strong economic growth and allowing real wages to increase over that time.

In exchange for moderation in money wages, the then Labor government, through the accord and through understandings developed with the trade union movement and the working people of this country, entered into arrangements that boosted the social wage. It was Labor that introduced Medicare, providing universal health care for Australians. It was Labor that ensured that child care became affordable, by greatly expanding the number of childcare places. It was Labor that introduced a decent system of family payments in this country, which ensured that those who were not in work and the working poor were able to have their incomes boosted by taxpayers in exchange for wage moderation. It was Labor that introduced compulsory superannuation—nine per cent—as part of the social wage, as part of that wage moderation.

Every commentator knows that Labor achieved that wage moderation through improvements in the social wage and in order to ensure that this country had an economic future. Yet this government condemns the trade union movement for its cooperation in ensuring that wage moderation occurred and that Australian industry could become competitive, and it thanks the union movement with this extreme industrial relations legislation. That is the history of wage moderation in this country. The legislation before us here today is an indictment of the government, because now employees have no choice but to toady to employers and do what they are told. The government has employees—the working people of Australia—right where it wants them: subservient to employers. (Time expired)

Mr SAWFORD (Port Adelaide) (5.26 pm)—I will come straight to the point. I am opposed to the Independent Contractors Bill 2006 and the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006. Like Work Choices, this legislation serves to undermine the living conditions and standards of Australian workers. The bills attack the rights, entitlements, conditions and protections that ought to be afforded to Australians in the workplace. The government is seeking to create a set of circumstances where workers can be forced onto sham contracts and have to pay for their own leave, including sick leave, superannuation and insurance. For contractors the legislation diminishes or eliminates protections by overriding state legislation.

No-one with any genuine concern for the interests of employees or contractors supports this legislation. In fact, the only real cheer squad I could identify is a rather shabby organisation called the Independent Contractors of Australia.

Mr Burke—It’s a website.

Mr SAWFORD—Despite its name, Independent Contractors of Australia is not a rep-
representative organisation; it just pretends to be one, as the shadow minister tells us. This was exposed during the Senate inquiry into the Independent Contractors Bill. Sustained questioning by Senator Steve Hutchins and Senator George Campbell revealed that the ICA’s claim to represent 1.9 million independent contractors is nothing but a total sham.

The ICA executive director, Ken Phillips, confirmed that the organisation has just 200 members, who each pay the princely sum of $5 a year, plus $50 for access to the website. The nature of the ICA membership was not revealed to the Senate—that is, it is not even clear how many of the 200 members claimed by the ICA are in fact independent contractors. According to Mr Phillips, the ICA has a ‘Don’t ask, don’t tell’ membership policy. In his own words, prospective members ‘put in an application’. He said:

... um, we have a look at it, give them a phone call, have a chat, um, there hasn’t been an application we’ve rejected so far.

Nudge, nudge; wink, wink. What is clear is that none of these members were consulted about the ICA’s position on the Independent Contractors Bill. According to Mr Phillips, the ICA’s position was drafted by him and discussed with the 12 members of the ICA committee of management only. That is a bit short—about 1,899,888 short—of the 1.9 million Australians purported to be represented by the ICA.

The founder of the ICA is a Mr Bob Day, an individual I have referred to as the founder of the ICA and the Liberal candidate for Makin. That description sells him short. Mr Day is also a multimillionaire property developer and former president of the Housing Industry Association. He is a long-serving president of the Liberal Party’s Makin federal electorate council. Australian Electoral Commission records show that Mr Day is a major financial contributor to the South Australian division of the Liberal Party through his company Homestead Homes.

According to press reports, Mr Day took personal responsibility for funding Liberal
Party election advertisements in the lead-up to this year’s South Australian election. He reportedly vowed to do ‘whatever it takes’ to give the Liberal campaigns in the state seats of Newland, Wright and Florey the resources to win. Unfortunately for Mr Day and the Liberal Party, even his immense personal wealth was not enough to defeat Labor in these seats. I am pleased to advise that in two of them—Wright and Florey—the Labor candidates were returned with an absolute majority on first preferences.

Mr Day is a long-serving board member of the HR Nicholls Society, an extremist organisation that has condemned Work Choices for its moderation. A biography published on the HR Nicholls Society website says that Mr Day has served as secretary of the organisation since 1990. A spokesperson for the Minister for Employment and Workplace Relations dismissed the society’s criticism of Work Choices by saying:

What would you expect? Let’s get a grip. The HR Nicholls Society is such a small group it is almost moribund.

I agree with the minister’s spokesperson on these points. The HR Nicholls Society is certainly small, it is certainly moribund and it is certainly out of touch with modern Australia. The problem is that it continues to wield considerable influence inside this government. We saw that earlier this year when another South Australian, finance minister Nick Minchin, gave a private speech to the HR Nicholls Society in which he pledged a further wave of extreme industrial relations changes. During his speech in February, Senator Minchin said:

... there is still a long way to go ... awards, the IR Commission, all the rest of it.

That is more than the government has admitted to the Australian people—so, when the speech got leaked, Senator Minchin and then the Prime Minister ran around denying the meaning of those plain words.

Mr Day is also a member of the Samuel Griffith Society board and, until his Liberal Party preselection, was deputy chair of the Centre for Independent Studies. Mr Day has been a vocal and influential supporter of the Howard government. The government has supported Mr Day as well. In 2003, Mr Day was appointed an Officer of the Order of Australia and awarded a Centenary Medal. But none of those prizes are as great as the prize before the House today. The Independent Contractors Bill delivers to Mr Day the legislative change he has long sought.

In 2002, he published a document entitled Contract Bridge: Independent contracting—A solution to Australia’s $64bn unemployment problem. It is a fascinating insight into the premise that underpins the legislation before the House and the motivation of its biggest spruiker. Rather than reading the crib notes provided by the minister’s office, members opposite would have done well to read it themselves before participating in this debate. It gets off to a really rollicking start by extracting, with approval, a claim that the Australian industrial relations system:

... transfers a large part of the post 15 and 16 year old cohorts from workplace experience, notably apprenticeships, into educational institutions where they waste their time and everyone else’s.

Bizarrely, the extract continues:

No one has asked whether the drug problem, which seems to be getting worse amongst young people, is related to this phenomenon. Mr Day says that independent contracting offers more than a glimmer of hope in addressing this awful situation.

Regrettably, the connection between fairness in the workplace and drug abuse by young people is not quite explained, nor does Mr Day say how less fairness might redress the scourge of drug abuse by young Austra-
lians. Far from just providing an implicit endorsement of this ridiculous claim, Mr Day goes even further. He says:

Maintaining the existing Award System – the principle cause of Australia’s consistently high levels of unemployment and all its associated ills (drugs, crime, violence, poor health, teenage pregnancy and even suicide) has been estimated at costing the economy over $60 billion.

We have heard a lot of absurd arguments from the other side in support of the Independent Contractors Bill, but not even one member of the government has been so stupid as to lend support to that farrago of absurdities.

What Mr Day does in Contract Bridge is say that independent contracting offers workers the privilege of giving up what he calls the ‘familiar contents of traditional employment’—you know: annual leave, long service leave, sick leave, maternity leave, superannuation and redundancy payments. That is what he means. He says that independent contracting allows workers to ‘jettison all the old compulsory entitlements, including unfair dismissal protection’. In Mr Day’s view, a positive aspect of independent contracting is ‘the understanding that either party may terminate the contract at any time, for any reason’. Mr Day also talks about other benefits for business, including the ability to avoid:

… the time-consuming practice of contributing to long service leave and superannuation schemes and, most importantly, the responsibility to deduct tax.

That is not much of a deal for workers: no annual leave, no long service leave, no sick leave, no maternity leave, no superannuation, no tax deductions and no job security. What a sell!

It is an especially bad deal when it is forced on vulnerable workers who are in no position to say no. That, sadly, is what the legislation before us will facilitate. Let us make no mistake about that. At the time that Contract Bridge was published, not even the then-Minister for Employment and Workplace Relations, now the Minister for Health and Ageing and the Leader of the House, would lend it his support. Writing in the Adelaide Review in December 2002, the minister said:

... although the prescriptive nature of the award system undoubtedly inhibits economic growth, it is not necessarily “the principal cause of Australia’s consistently high rate of unemployment”, as Day maintains.

The minister was kind enough not to draw attention to Mr Day’s absurd and unsubstantiated claim that the award system costs the Australian economy $60 billion. This $60 billion claim is interesting. Is it $60 billion a day, a month or a year? Is it a parliamentary term? No-one seems to know. Who cares? The claim, like much else he has to say, is complete nonsense.

According to the minister for health, Mr Day’s vision is the replacement of employment law with self-employment and the replacement of labour law with contract law. It is a radical vision—one that is at the heart of the legislation before the House. In relation to employment matters, it is not just changes to the legislative regime governing independent contracting that Mr Day seeks.

In October 1996, Mr Day made a submission to a committee of this House advocating the full deregulation of youth and apprenticeship wages and recommending the medieval guild system as the model for a reformed skills training regime. In a further submission in November 1998 titled Slave Labour, Mr Day proposed that junior wage rates should be based on the value of the work to the person purchasing it and set by agreement between the employers and employees themselves. The previous member, the member for Rankin, talked about the Orwellian twist and here is another one: Mr
Day said the current system enslaves workers. In a burst of hyperbole, Mr Day said:

... I feel compelled to liken the struggle for the liberalisation of the existing wage regime to the campaign against slavery and to invoke Ernest Howe’s description of it as “a bitter conflict with contemporary sentiment and interests of gigantic power”. Liberty. Freedom. The long struggle to break the shackles of workplace regulation goes on.

The title of Mr Day’s paper Slave Labour is appropriate, but not for the reasons he claims. With knowledge of Mr Day’s radical vision for Australia, as expressed in submissions to the parliament and published in a paper promoted on the Independent Contractors of Australia website, it is no surprise that the Independent Contractors Bill has been embraced so warmly by Mr Day.

Responding to some minor concessions for outworkers and owner-drivers announced by the government in early May, Mr Day said that an opportunity to revisit these concessions would present itself next year. He also said: ‘Everything is incremental, isn’t it?’ and ‘It’s always the first step that is the hardest.’ Doesn’t this language sounded familiar? I remembered someone uttering something similar about industrial relations changes, but I could not quite put my finger on it. It was not until I reviewed Senate Minchin’s words to the HR Nicholls Society in March that the penny dropped. In his private remarks Senator Minchin said:

This is evolution, not revolution, and there is still a long way to go ...

Mr Day could not have put it better himself.

The Independent Contractors Bill does not deliver everything that Mr Day and his fellow ideologues want, but for Mr Day it is a big step in the right direction. Mr Day is one of the people for whom the term ‘industrial ayatollah’ fits like a glove. This term was coined by Justice Michael Kirby in a speech delivered to mark the centenary of the Australian Industrial Relations Commission. Justice Kirby said:

... there are those who see no future whatever in the Australian Industrial Relations Commission. For them, it should be closed down, lock, stock and barrel ...

Persons of such views tend to live in a remote world of fantasy, inflaming themselves by their rhetoric into more and more unreal passions, usually engaging in serious dialogue only with people of like persuasion.

After recounting the circumstances of his own niece, who was the victim of exploitation by an unscrupulous employer and who successfully sought redress in an industrial tribunal, Justice Kirby had this to say:

For many young people in casual work and at the lower end of the spectrum of employment in Australia, there is still vulnerability. If we are committed as a nation to the protection of human dignity in conditions of work and “reasonable and frugal comfort”, we still need those who will help the vulnerable. We need those who will assert their rights. But we also need those who will uphold and defend basic rights. The market works miracles, as we all know. But at the edges of the market there are those who lose out. To pretend that everyone has equal power in the market is to indulge in a miraculous self-deception.

It is this same miraculous self-deception that underpins this legislation. The people who will pay the price will not include millionaire property developers like Mr Day or any of us in here. Those who pay the price will be the workers forced into sham contracting arrangements, contractors in dependent contract positions, owner-drivers, outworkers and so on.

It is important the Australian people understand that this legislation did not just emerge from a vacuum. It has been planned—and planned very carefully. Like the Work Choices act, the Independent Contractors Bill is the product of a sustained
push by very wealthy and powerful individuals who have long occupied the margins of economic debate in this country. Under the Howard government, they have been brought in from the margin—and they are in there, centrefield.

As expressed by my colleague the member for Perth, the key message delivered to workers affected by this bill is, ‘You are on your own’. I trust that, at the next election, that is the message workers will deliver to Liberal and National Party candidates who have so shamefully sold out the interests of workers. I especially hope that it is the message delivered to the out-of-touch Liberal candidate for Makin. And I trust that the Labor candidate for Makin at the next federal election will be the Salisbury mayor, Tony Zappia, a person of the people who has a track record superior to that of any mayor in this country. He is the best mayor of any local government authority in Australia. I see the parliamentary secretary for water, the member for Wentworth, is at the table. He would know Tony Zappia. He would know Colin Pitman, the world expert on stormwater retention who was employed by the Salisbury council. I hope Tony Zappia will be the Labor member for Makin after the next federal election.

I restate my opposition to the Independent Contractors Bill 2006 on behalf of the people of my electorate and I commend to the House the second reading amendment moved by the member for Perth. Labor stands with workers in opposition to this further attack on their rights at work, and we stand strong and still and resolute. (Time expired)

Mr ANDREN (Calare) (5.46 pm)—A dynamic and flexible mix of working arrangements is an essential part of a modern society and its economy. Independent contractors are a very important part of that mix, and within that framework, genuine commercial contracting relationships are obviously part of the economic mix—but voluntary, not involuntary, contracts. After all, those who choose to set up as a self-employed business and to contract out their skills and expertise work very hard. They often forgo the certainty of regular income, holidays or sick pay and choose to bear the burden of their own risks and costs: their superannuation, tax, workers compensation and legal liabilities. However, such contractors also enjoy the flexibility to determine the direction of their business and the freedom to negotiate their own terms and enter into the contracts of their own choice so they may enjoy the profits of their effort.

It is a sad indictment that when this government uses the terms ‘choice’ and ‘flexibility’ my suspicions are immediately raised about whom exactly will benefit from the proposed changes. The Independent Contractors Bill 2006 and its accompanying Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006 purport to protect contractors by firmly placing all contracting arrangements within the realm of commercial regulation. A commercial contractual arrangement between contractor and client is fundamentally different to an employment contract and should remain unaffected by industrial regulations of neither party’s choosing.

But these bills blur important distinctions such as the removal of state and territory protective legislation and industrial relations tribunals. In this legislation, those so-called dependent contractors—who for all intents and purposes are employees but without the bargaining power to negotiate or insist on basic entitlements under contract—are explicitly removed well away from the reach of protection offered by state and territory employment regulations and placed firmly within the commercial sphere, on par with those who truly choose to be contractors. This means that some of our most vulnerable
workers—those who have no choice but to take work under exploitative service contracts—may no longer refer to state and territory laws that recognise their employee relationship and thus protect their entitlements through deeming or unfair contract provisions.

According to the Minister for Employment and Workplace Relations, these current protections are in fact arbitrary restrictions on how independent contractors are to be treated under the law. But state deeming laws in relation to superannuation, workers comp, OH&S or taxation are not considered arbitrary restrictions. The so-called arbitrary restrictions in state or territory laws include workplace relation matters such as minimum pay, basic leave entitlements, hours of work and other conditions of employment. These are all overridden by this legislation. Yet these arbitrary restrictions are actually acknowledged in these same bills as important protections for two classes of contractors widely recognised as being particularly vulnerable groups of workers—that is, outworkers and sweatshop workers.

Outworkers in the textile, clothing and footwear industries retain access to existing state and territory protective legislation, but only where there is specific reference to service contracts in that legislation. Access to these protections is further qualified. In the absence of other legislated minimum pay rates, the default minimum rate is determined by the federal Australian Fair Pay and Conditions Standard, which may refer to similar going rates, which of course may be similarly unfairly low. Further, the head contractor or originating employer is only obliged to pay the statutory minimum standard to the worker with whom they have the immediate service contract. There is no requirement that they pay sufficient amounts to cover necessary costs by some subcontracted workers further down the contract chain, which is the framework on which the fashion industry operates. I will mention the telecommunications industry and its impact on so-called contractors in a moment.

Owner-drivers in the road transport industry also retain existing protections, but only in Victoria and New South Wales, where protective laws are well established. I would not be too confident about the protections remaining in place, given that future regulations could easily remove them. It has been made clear that a review in 2007 of this provision intends to rationalise and nationalise it. Those owner-drivers in other states suffering the same vulnerabilities are ignored, and they will be in the same position as other workers on commercial contracts: no longer able to access their states’ unfair contracts legislation, relying instead on the new federal unfair contracts regime established under this legislation.

The provisions relating to unfair contract provisions and sham arrangements mean that those employees who are already powerless enough to have been forced to take all the costs and downsides of a commercial business enterprise through a service contract with none of the choice or benefits of being their own boss would only have recourse to the Federal Court or the Federal Magistrates Court to determine whether a contract is unfair or is a sham arrangement engineered by the employer for their own financial convenience.

Consider contracted workers like those engaged in labour hire arrangements, cleaners, factory workers and people like the young person I spoke to recently who applied for a job at a call centre only to have to ask what an ABN was. She was required to provide one for that job that she needed so dearly. When she queried the terms of the contract, which included looking after her own insurance, super and other on costs for a
paltry hourly rate of pay, she was offered a better deal. She had qualities, it seems, that the company wanted. An award rate with super set aside was offered, providing she did not tell the other employees. She told them it was totally unethical and rejected the offer and the job.

Good on her, but who can afford to stand on their dignity in this labour market, where an hour a week is regarded as employed and where kids are cobbled together a portfolio of part-time and casual work? It is not only kids but also people with mortgages and families. What deceit, and what a fraud that statistic is. And what political flexibility is now built into our employment statistics—talking of shams—to enable this sham full employment message to be put about. Both sides of politics hide behind those figures when it suits them.

While a court has the important ability to examine the true nature of the working relationship in its totality to determine sham and unfair arrangements, how on earth can these already disadvantaged and disempowered people even consider taking their employer/contractee before the Federal Magistrates Court or the Federal Court in the first place? Where on earth could they possibly get the capacity and finances to see through a formal, slow and costly court process—the only option available under this legislation? After all, it is the recognised reality of the vulnerable position of such employees that created the need for the state deeming laws in the first place.

Where once their interests may have been safeguarded and mediated by accessible and specialised industrial relations tribunals, they will be on their own with few resources in an alien and intimidating legal system. Remember that only a party to the contract may make such application. Thus, where once a group of workers could collectively make representation or request a union to act on their behalf, common-law tests can only be applied to individuals on a case-by-case basis. Where once collective agreements and awards provided safety net and deeming provisions that defined groups of dependent contractors as the employees they really are, such employees are now fully exposed to the free-fall of the market.

By removing those state safety nets and the ability to seek advocacy, the legislation draws yet another group of vulnerable employees into the government’s brave new world of industrial relations. It provides yet another opportunity for unscrupulous employers. Of course, employers are not all unscrupulous. That is the reason why I consistently supported the unfair dismissal provisions for businesses with up to 20 employees. I recognised that a workplace that was coherent and cooperative was in the best interests of all parties. But this provides an opportunity for unscrupulous employers to avoid the responsibility and employee entitlements that once went hand in hand with the employer-employee relationship, including investment in skills training. It transfers all the risk to the employee. It puts fairness and a fair go just out of reach for most of those whom this legislation purports to protect.

The legislation does nothing to clarify who is truly an independent contractor. It does nothing to synchronise with other laws, such as tax law, that would determine the rights and responsibilities of contracted workers. And it does nothing to encourage investment in a skilled and prosperous future for all Australians. I support the tenor of the second reading amendment moved by the opposition. I will support it, symbolic as it is. No amount of detailed amendments will rescue this package from unfairness.
The Prime Minister spoke in question time today about a fair workplace—the new, fair workplace. Tell that to the workers at Cowra abattoir, faced as they are with the prospect of only getting some help from taxpayers as an employer allegedly shifts assets around. The GEERS—that is, the General Employee Entitlements and Redundancy Scheme—is welcome. But at the end of the day it seems like it could well be an incentive for a company to go belly up by whatever means and expect the Australian people to take responsibility for workers’ entitlements—or only part thereof—that should be the responsibility of the employing company. What chance is there of a GEERS for contractors? There is nil, especially now, with the removal of the deeming provisions.

Let me tell the House of a very pertinent story, so relevant to this debate. The biggest telcos, Telstra and Optus, rely on contractors who deliver a service through a middle company. It is usually one of Downer, Transfield or BSA. These dependent contractors rely on the price struck by their related contracting company. In Telstra’s case it is Downer. Telstra winds back the contract price to Downer. Downer picks up the loss by winding back the individual contractor rates. By how much? I heard today that the rate has been wound back to a flat $80 for rural contractors.

The contractors have been told to accept the same rate as their city counterparts to cover all their costs, including vehicle, fuel for use in the bush, insurance, superannuation and all on costs of running a small business from their van. What is more, there is no longer a second code rate—that is the amount for the necessary fault-finding follow-up after a repair has been made to the line. So these rural contractors are now facing a cut of up to $25,000 in their annual income. In one case, that amount is exactly that of the mortgage repayments of the young couple relying on the contracted rate.

What can these men—and in this case they are all men—do? They cannot take on their immediate contractor, Telstra. Downer shrugs its shoulders and says that it is Telstra’s fault. These people are employees—they get their jobs from Downer, Downer decides where they work and they rely on Downer exclusively for their income—and yet they are deemed to be contractors. Now they receive the same payment for the quite different and more expensive work of maintaining the rural telephone network. This is a company that is squeezing massive monopoly profits while it can—profits for the benefits of private shareholders—from what is, in many circumstances, a parlous network, when it should be servicing the needs of all Australians. Those repairing the lines should be rewarded according to the level of their skill and the absolutely vital role they are playing in providing telecommunications to all Australians, but especially rural Australians. By dint of legislation such as this, the government is complicit in the winding back of conditions for these contractors and ultimately in the winding back of protection for the most vulnerable of people: those caught between employee and contractor status.

I received an email from a non-award employee this week who said:

I completely support your outrage at the blatant grab for money when the government and opposition agreed to increase the parliamentary superannuation to just over 15%.

However, he points out that increasing the employer contribution for all workers to 15 per cent would mean that he and other workers on TECs, total employment cost packages, would find any increase in the super guarantee simply trimmed from the package. In other words, the pre-tax salary of the employee is reduced to cover the additional su-
perannuation. As my correspondent points out:
My family barely survives as it is on my single income and I certainly couldn’t absorb a cut of $3,000.

Nor should he. Nor should this prevent this parliament working out a means of ensuring the superannuation guarantee is increased to that enjoyed by its MPs—with existing members of the old scheme, by the way, required to join the new one.

A tax relief mechanism must be determined to account for an honest, guaranteed super payout for all workers whether they are award employees, non-award employees or those contractors who are forced to accept a fixed—and in the case of those telecommunications workers, a reduced—rate for their vital services. The dilemma facing young workers who are seeking to provide for their retirement is highlighted by the inflexibility—not the flexibility—of the whole new workplace relations and independent contractors legislation. It is flexible only for the hirer of labour, not the provider, unless they are in that small fraction of the workforce that can name their own price.

Rather than workers and contractors being relaxed and comfortable as Australians were encouraged to be at one stage over the past decade—as this government chimed away at workplace and human rights—this legislation erodes individual financial security, increases insecurity and anxiety and further swings the pendulum away from fairness and towards exploitation. I hope there are sufficient senators who stand for family and small business values who will reject this legislation when it reaches the other place. It deserves to be trashed.

Mr SNOWDON (Lingiari) (6.03 pm)—I commend the member for Calare for his contribution and his commendation to the Senate that there be enough of them over there to see the merit of the arguments that have been put forward by him and by those of us on this side of the chamber who are participating in this debate to ensure that the Independent Contractors Bill 2006 and the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006 are defeated. There is no doubt that these bills are unfair and unreasonable. I make the observation that others have made: I think to date we have only had three government speakers on this legislation. We have already had a handful of opposition speakers and today another 15 or 16 opposition speakers will express their views about this legislation so that the voters in their electorates can understand their position.

I wonder what it is about the government that they do not feel their backbenchers ought to be given sufficient licence to be able to participate in debates in this parliament. I can only conclude that a decision has been taken by the whip or by the leader of the party to suggest to members that they not participate in these debates. Let me say this: they cannot hide. The Votes and Proceedings of this place will record how they vote. Even if they remain silent, we will know how they vote. We will be able to say to the electors in their individual electorates and to those people involved in areas where independent contracting is an issue, ‘This is what the government have done, this is why they have done it and this is how your member voted,’ so they can appreciate what has taken place here—the abuse of the rights of Australian workers.

We know that there are two bills that my Labor colleagues and I—and the member for Calare and, I hope, the other Independent members of this place—will not support. They are just a continuation of the Howard government’s extreme industrial relations changes and an ideologically driven attack on the working rights of all Australians. They
are part of this government’s broader efforts to tear away from workers their rights, entitlements, conditions and the protections they were once guaranteed in the workforce. I note the second reading amendment moved by the shadow minister for industry, infrastructure and industrial relations which states that the bills continue the Howard government’s attacks on Australian workers:

... by allowing employees to be treated as ‘independent contractors’, thereby removing employee protections and entitlements and placing superannuation, tax, and workers’ compensation burdens on them;

and further:

... by removing protections from independent contractors who are in a dependent contract position and as a consequence in an unequal bargaining position;

It seems to me that we as an Australian community ought to be very concerned about the thrust of this legislation because what it is saying to people, and I know others have commented about this, is that, regardless of your situation, you will bargain your contract provisions with the person you are contracting to. Never mind the issue of collective bargaining or your rights as an individual. You will be subject to the conditions that are eventually going to be imposed upon you by the person you are contracting to. You will have to maintain and look after your own rights in terms of superannuation, sick leave, holiday pay, workers compensation, tax and so on.

What these bills will do is ensure that independent contractors are not seen as employees, when they ought to be, and ensure that independent contracting relationships are regulated by commercial law rather than industrial relations law. I note the phrasing used in the Bills Digest in explaining the purposes of the bills. It says:

The purpose of the Principal Bill is to move contracting relationships as far as possible away from the realm of employment and to place these relationships as far as possible under commercial regulation.

These bills seek to do this in a number of ways. I want to refer again to the second reading amendment moved by the shadow minister, which gives good expression to the concerns that I have about this legislation. The amendment states that the bills remove protection from independent contractors by:

(a) continuing to use the common law definition of independent contractor as the basis of law without the guidance of statutory criteria;

(b) allowing employees to be treated as independent contractors in a sham way by ineffective anti-sham provisions;

(c) overriding State laws with employee deeming provisions;

(d) overriding State unfair contracts provisions which provide protection to employees, contractors and small business;

(e) overriding any future State and Territory owner-driver transport laws and putting existing State owner-driver transport laws at risk; and

(f) failing to provide any genuine protections for outworkers through ineffective outworker provisions, significantly weakening outworker entitlements …

This is just a re-emphasis of the continuing message of the Howard government to Australian workers that ‘you are on your own’. We have it with AWAs, we have it with the government’s opposition to collective bargaining and the involvement of trade unions in the workplace, and now we have it with this legislation.

We know that the government have determined that they will not abide any proposition that there should be a process of collective bargaining freely chosen. What they are doing in this instance is ensuring that individual contractors cannot collectively bargain in a way in which they might otherwise do. It seems to me that when you are on
the bones of your backside, as many Australian workers are, and you are forced into a position where you have to sublimate your desires for improved working conditions or improved contract conditions to the demands of a contractor who might well be unreasonable, it puts you at extreme risk. The people responsible for perpetrating this position on the Australian community are the Howard government. As I said, it is just a repeat of their continuing attack on the rights of Australian workers.

As Labor senators stated in the opposition senators’ report of the Senate Employment, Workplace Relations and Education Legislation Committee inquiry into these bills:

The basic policy aim of the Independent Contractors Bill is to turn as many employees as possible into contractors. In the Government’s view, and more particularly in the view of employer organisations close to the Government, industrial relations are greatly simplified by arrangements which put employees onto either Australian Workplace Agreements, or turn them into contractors. Work Choices is intended to encourage the first of these trends, and the Independent Contractors Bill is intended to encourage the latter development.

I do not know about you, Mr Deputy Speaker, but most of us in this place have families. In my case, I have four kids, not all of whom have left school—only one, and she is attending university. I can imagine what might happen in the case of a young person leaving school in a remote community—or any part of Australia. I talk about remote communities because of where I live. They might be seeking employment, and they might walk into the boss’s office—it might be a transport company or it might be something else—and the boss says, ‘You either sign this agreement as a contractual arrangement between you and me, or you don’t get the job.’ How intimidating would that be for a young person, particularly one who might not have done as well at school as we might have wanted them to? They might have difficulty in relationships. They go into the workplace and they find that they are being told what to do, when to do it and how to do it, but they are not given any capacity to seek advice or to be informed about their rights as Australian workers.

Despite whatever the legislation says, we know what happens in these cases. The intimidation will mean that invariably these Australian workers will be victimised. There should be no doubt, though, that Labor is more than happy to support Australians who genuinely want to start their own businesses. I did that myself, and I understood what my obligations were. When I set up a business, I understood that I had to look after issues to do with tax, superannuation, leave and the rest of it. I understood that that was what it was about. I did not seek to be an employee; I set up a small business.

What the government is seeking to do in introducing these two bills is create the impression that somehow small businesses and contractors are going to benefit. What we know about these two pieces of legislation is that these laws will do exactly the opposite. Genuine employees will be pushed out of the employer-employee relationship where they enjoy the entitlements and protection of industrial relations law—admittedly, only what is left of it after the way in which it has been trashed by this government. Nevertheless, they will lose what remains of those protections.

Instead, Australian workers will be pushed into sham independent contracting arrangements. As a result of that, the burdens that normally fall on the employer will now fall on some Australian workers—for instance, those burdens relating to superannuation, which I have spoken about, workers compensation and income tax. These bills also seek to override state and territory legislation
dealing with employee deeming and unfair contracts that previously protected Australian workers under contract. The member for Calare spoke extensively about that in his contribution.

One particular area where these bills will have a major impact is in the transport sector, where there are high numbers of independent contractors working as owner-drivers. My electorate, Lingiari, extends 1.3 million square kilometres across the regional and remote parts of the Northern Territory. Road transport, road transport operators and owner-drivers are crucial. They are the life-blood in terms of delivering products, goods and services to remote Australia. They are also vital in terms of taking goods to market. They are vital for the cattle, mining and tourism industries. Together, these industries comprise the bulk of the private sector activity in the Northern Territory.

I have often spoken in this place about the need to improve the conditions of roads in the Northern Territory to improve safety and the need to increase the carrying capacity of the vehicles that use those roads. This would in turn improve the performance of those Territory industries that rely on the road transport industry. But it is equally important that we look after the interests of those people who drive this industry, actually and metaphorically. We need to ensure that they are able to enjoy some protection of their working conditions and entitlements. It is true that not all people who drive road trains in the Northern Territory are independent contractors. Many are employees. Many have a good relationship with their employer and their interests are safeguarded. But we know that many independent contractors are owner-drivers in the transport industry, and we know that their relationships with their principal contractors are far closer in nature to employee-employer relationships than to commercial relationships.

The issue of owner-drivers in the road transport industry was the subject of extensive attention by the Senate committee which inquired into this proposal. There was a submission from the Transport Workers Union—and I hope the ears of the government are not offended by the use of the word 'union'. I am proudly a trade unionist and I encourage any young person entering the workforce who I can discuss this with to join a trade union. I know the work of the Transport Workers Union in the Northern Territory. In their submission, they noted:

Owner-drivers are single vehicle operations the vast majority of which perform work exclusively for a single transport operator (principal contractor). Owner-drivers are often highly dependent upon those with whom they contract. Owner-drivers are price takers in the market place. This dependence leads to an inequality of bargaining power and the associated potential for exploitation.

I note that in the minority report Labor senators stated:

Exploitation of owner-drivers in the transport industry results in industrial instability, higher than average rates of bankruptcy and road transport accidents.

Understand that these people are price takers. If you are an owner-driver working in a remote part of Australia then added to the current cost of fuel is the cost of wear and tear on the vehicles, which, because of driving across these roads—the unmade roads, effectively; the off-bitumen roads; the dirt roads across remote parts of Australia—is absolutely stupendous. What happens as a result is that the contractors, and indeed transport owners generally, in those positions bear a tremendous cost and their margins become narrower by the moment in those circumstances. So they are in a very sensitive situation.

There is some protection in this legislation for owner-drivers in New South Wales and
Victoria. These bills are prevented from overriding legislation in those states that seeks to treat owner-driver independent contractors as if they were in a normal employer-employee relationship. So the bills cannot override that legislation. But the government has not been as generous to owner-drivers in other parts of Australia, and particularly not to road transport workers operating in the Northern Territory. Unfortunately, they will be forced to cop the full brunt of the unfair changes contained in this legislation. That is unreasonable and unfair. After so many years in government, it is about time that, instead of continuing to attack Australian working people, this government saw the error of their ways and understood that a workforce that is productive, happy and properly remunerated and which has the right to the protection of a trade union and the right to collectively bargain is in the best interest of the Australian community and the Australian economy.

Mr GAVAN O'CONNOR (Corio) (6.22 pm)—I rise in this House to oppose the Independent Contractors Bill 2006 and the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006 simply because they constitute an attack on my constituents. There are many owner-drivers in the Geelong region and they work very hard to make a living in a very difficult economic environment. They are crucial to the operation of the Geelong economy and they are critical players in the movements of goods and services in and out of one of Australia’s largest provincial cities—and, of course, the hinterland that supports it. These owner-drivers are critical to that rural hinterland and they play a very important part in the transportation of grains, horticultural products and dairy products around the region.

Above all, these owner-drivers are family people. They work extremely hard, long hours. Increasingly their livelihoods are under pressure from a variety of sources. We know the transport industry is an extremely competitive one. We have seen massive rises in input costs, which have put a lot of pressure on transport companies in Geelong and elsewhere, and those pressures have come onto the drivers, be they owner-drivers or others. These are family people who contribute much to the Geelong and national economies. The question I ask on the floor of this House today is: why is this government choosing to deceive them through this legislation and why is it seeking to attack their livelihoods in a most unprincipled way?

This Independent Contractors Bill 2006 makes amendments to the Workplace Relations Act and further develops the adversarial industrial relations system that has been instituted by this government. Purely and simply, this is divide-and-conquer legislation aimed directly at the most productive unit in our economic system: the Australian worker. This bill follows on from the government’s extreme industrial relations changes, which have launched massive attacks on the living standards and conditions of Geelong workers by removing their rights, entitlements and conditions of work.

We have seen in the Geelong community some quite significant demonstrations against the government’s WorkChoices legislation—and rightly so—because what is at stake in this legislation, as it was in previous draconian and extreme legislation introduced and passed by this parliament, is the living standards of all employees, including owner-drivers and others who are affected by this legislation. This bill removes the rights, entitlements, conditions and protections afforded to Australians in the workplace, whether they are employees or independent contractors. It simply does this by allowing employees to be treated as independent contractors, removing employee protections and entitle-
ments and, as we have heard from previous speakers in this debate, placing superannuation, tax and workers compensation burdens directly upon them. It does this by removing protections from independent contractors, who are in a dependent contract position and, as a consequence, in an unequal bargaining position.

As we go through this legislation and its technical provisions, we see that the above-mentioned changes are put into effect by continuing to use the common-law definition of independent contractor as a basis of law, without the guidance of statutory criteria necessary to give the clarification and avoid the confusion that is inherent in this legislation. It puts into effect these adverse changes by allowing employees to be treated as independent contractors in a sham way by ineffective anti-sham provisions. It overrides state laws with employee-deeming provisions. It overrides state unfair contract provisions which provide those essential protections to small businesses, contractors and employees.

It does not just stop there. It seeks to override any future state and territory owner-driver transport laws while at the same time putting the existing ones at risk. It is not only the transport industry that suffers under this piece of legislation; it is also the textile, clothing and footwear industry. Workers in that industry are likewise penalised by the provisions of this obnoxious piece of legislation.

Geelong has a very strong TCF industry and very strong textile, clothing and footwear working traditions. And the union movement in the Geelong region has played its part in ensuring that the workplaces in which Geelong TCF workers earn their living do abide by the standards that we would expect in a civilised community and that the remuneration in the form of wages and conditions paid to workers who create the wealth in those enterprises—along with the owners and the entrepreneurs and the management—get a fair return for their labour in this industry. But here we have in this legislation a failure to provide any genuine protection for outworkers through the ineffective outworker provisions which significantly weaken outworker entitlements.

The simple fact of the matter is that this is a piece of legislation that introduces even more confusion and complexities into our workplace laws. I say to members opposite: how can that be efficient? How can that be in the interests of businesses or employees or communities or the economy? But it is not the first time that we have had legislation proposed by this government that adversely affects the economic relationships between employers and employees. This particular matter is under examination by the parliament and the processes of the parliament. We have the Senate Employment, Workplace Relations and Education Legislation Committee currently investigating and reporting on this matter. Yet here we have this arrogant government treating the processes of this parliament and that committee with contempt by bringing this legislation into the House prior to any consideration of that committee's report.

The reality is that it is not only in my electorate that owner-drivers and workers in the transport and other industries are going to be affected by this legislation. The bill, it is estimated, affects 800,000 to 1.9 million independent contractors across Australia. And the reason why this bill adds confusion and complexity is simply that it is highly prescriptive, it is technical and it makes little sense. Some types of contracts entered into after the commencement of the bill will be subject to relevant state laws and others will not. Time after time we have members opposite getting up in this House lambasting and
blaming state governments for everything—well, for most things that occur in our society that adversely affect people. Yet here we have a piece of legislation that is inconsistent, highly technical, highly prescriptive, confusing and complex. I think that tells us why it is in the House today: because it is ideologically driven. It is the result of the coalition’s hatred of trade unionists and employees and its desire to strip away from independent contractors some of the benefits that they already have.

The bill creates a federal jurisdiction, but under this federal system there is no ability for employer organisations or unions to apply for unfair contract review on behalf of a party, which is inherent in and provided for by state law. I think this is indicative of how this government operates—that it seeks to bring legislation before this parliament that does not give anyone the ability to contest what they might consider to be an unfair contractual arrangement. We see this, of course, in the unfair dismissal laws that this government has put in place. Now we see it in this particular piece of legislation.

Let us strip it all away and look at this legislation. It is part of the extreme workplace relations legislation that is the ideological obsession of the Prime Minister. Once again we have legislation that is an attack on workers’ rights, their entitlements, their conditions, their living standards and those of their families. There is a clear underlying message in this legislation to either a vulnerable employee or a dependent contractor, and it is simply this: ‘This government is hanging you out to dry. You are now on your own, with no access to state based protections, no access to unfair dismissal provisions and no access to employee deeming provisions.’ This is in tune with the Prime Minister’s mean-spirited behaviour in the whole industrial relations area. On the issue of a minimum wage, the Prime Minister has opposed every national wage increase that the commission has agreed to since the government came to office. And the latest example of his indifference to working people and the maintenance of their living standards is the legislation that we have before us.

This legislation simply fails the fairness test, and it violates some very important principles and matters that are central to a decent working arrangement between employer and employee. Once again we have legislation that tips the industrial relations balance fairly and squarely in favour of employers and against employees and others. It violates any right to bargain collectively. That is one principle that we in the labour movement, with our union brothers and sisters, will eternally fight for in this place and outside of it. I deliver this particular message to the coalition: do your worst because when we come to power, as the wheels of democracy turn, we will undo it. We will undo it on behalf of the members of the AMWU, the TWU and the TCFUA in Geelong and around Australia.

We will undo your great edifice. Piece by piece we will strip it away and reconstruct the workplace relations of this country to provide fair protection for working families—those in this industry and in others—because this legislation not only violates the right to bargain collectively; it violates the right to appropriate occupational health and safety standards. The transport industry is one where the TWU, among other unions, have had to fight very, very hard to get some decent operating standards and conditions and to maintain them. This legislation violates the right to proper training and it violates the various other rights that are currently enjoyed by employees.

This legislation is opposed by the ACTU. Their submission is supported by individual unions as well as the state Labor govern-
ments, who represent millions of ordinary Australians. If members of the coalition want any guidance as to the electoral consequences of this legislation, we had it last Saturday in Queensland. You thought you had the Beattie government on the ropes, then you failed to make any headway at all. Members opposite in the coalition and members on this side of the House know very well that one of the key issues in that campaign at the state level was the workplace relations legislation of the Prime Minister. His magnificent obsession will lead you all like lemmings over the cliff.

As many of you ponder your political retirement courtesy of the working people of this country, the Prime Minister will not be affected because he will be the beneficiary of those very generous superannuation provisions that a lifetime in this place gives you. But now the Prime Minister is involved in wrecking the lives of working families. Do not think there is not a political cost for members of the coalition, because the union movement in Geelong stands firm against this legislation. I remind members opposite of the catchcry that we have at all of our rallies, and we will have them in the future: you touch one of us, you touch us all.

Ms VAMVAKINOU (Calwell) (6.42 pm)—It is always a pleasure to follow on from my colleague who is such a passionate advocate for workers’ rights. Indeed, he is right: touch one, touch all. On that note, I join my colleagues who have spoken before me to make my contribution to the debate on the Independent Contractors Bill 2006 and the bill associated with it, the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006. Like my colleagues I oppose this legislation as it is nothing more than a further attack on the rights and security of Australian workers. I want to support the amendment moved by the member for Perth, which I am certain will help ameliorate some of the problems that this bill, when implemented, will create.

This legislation is a betrayal to those hundreds of thousands of legitimate independent contractors, many of whom are in my own electorate of Calwell. It is a betrayal generally of those vulnerable workers who are at risk of exploitation under these provisions. These bills follow on from the government’s misleadingly named Work Choices legislation. They provide yet another attack on the rights, conditions, entitlements and protections in the workplace and on the living standards in general of the many hardworking men and women whom I represent in this place.

Despite the government’s assertion that this legislation is intended to protect independent contractors, the legislation actually does no such thing. It does not benefit independent contractors; it does not assist them in negotiating with unscrupulous employers or operators as it does nothing to redress the uneven bargaining positions of businesses and potential contractors. Just like this government’s Work Choices legislation, these bills rely on the incorrect presumption that all workers can negotiate an arrangement which is to the benefit of both the employer and the employee.

In reality, this could not be further from the truth. Whilst some workers decide to work for themselves as independent contractors, many do not. Just like the Work Choices legislation, which leaves employees who are unwilling to accept pay cuts out of a job, this legislation leaves workers who are unwilling to accept an independent contractor relationship out of a job. For too many people, there is no choice.

Firstly, this legislation allows genuine employees to be pushed out of the genuine employer-employee relationship and to be established as so-called independent contrac-
tors with the consequence that the employee’s conditions and entitlements are reduced or removed and further burdens are placed on the employee, such as workers compensation, taxation and superannuation arrangements, all of which would normally be carried out by the employer. Secondly, in my state of Victoria, we have many sound protections for contractors, and this legislation removes or reduces these protections by overriding the state provisions.

Looking at some of the detail of the bill, I have great concern with part 2, which seeks to override state laws with deeming provisions. Under state laws, certain categories of independent contractors are deemed to be employees. These provisions have been introduced to protect workers from what are effectively disguised employment relationships. Without these provisions, there is no definition of an independent contractor beyond its meaning under common law, which is problematic as no statutory criteria are provided as guidance. In Victoria, owner-drivers in the transport industry are currently protected by the state provisions for employment conditions. Whilst this legislation provides an exemption for such dependent contractors, this exemption is to be reviewed in 2007. This leaves the prospect of the exemption ceasing either before or after the next federal election, if the government is re-elected, and it also prevents other states from introducing comparable protection legislation.

This exemption raises further concerns. You have to ask: why is it there? Is it there because independent contractors will be facing reduced pay and conditions under this legislation? The minister has admitted as much. The minister in his second reading speech said that these provisions will remain because of the ‘special circumstances of owner-drivers in having to operate within very tight business margins’. In other words, owner-drivers are at risk of going broke if they are not exempt from the provisions of this bill and they therefore need to be protected. But what about everyone else? By the minister’s reasoning it is okay for everyone else to go broke, but not owner-drivers. I am pleased that owner-drivers will be exempt, albeit only in the short term, but I am very concerned about all the independent contractors that the government has decided not to protect.

Part 3 of this bill is also a concern as it deprives state jurisdictions of the power to legislate to set aside unfair provisions in contracts, which currently exist in state legislation. These state provisions are much broader and more easily accessible. The state provisions also allow employer organisations and unions to apply for unfair contract review on behalf of a party. This legislation does not. Instead this bill seeks to create an exclusive unfair contract regime in the Commonwealth jurisdiction, and unfair contract matters will need to be tried in the Federal Magistrates Court, a more formal jurisdiction, which will add to the expense, length and complexity of reviews.

Part 4 of the bill is perhaps of most concern and indeed the most contentious aspect of this legislation, particularly in light of the Senate Employment, Workplace Relations and Education Legislation Committee’s recent inquiry into these bills. The minister unfortunately chose to commence debate in this place prior to the conclusion of that committee’s inquiry. Of particular interest are the provisions in the committee report regarding contract outworker protection in Victoria, particularly given that the report notes that the committee considered outworkers to be more vulnerable to changes resulting from this legislation. As the textile, clothing and footwear industry is comprised in large part of outworkers, it is important to take note of what those who represent work-
ers in that industry submitted to the committee. In short, these representatives made it clear that the protections contained in this bill were inadequate.

The committee also noted that it received advice from the Minister for Industrial Relations in Victoria that Victorian legislation contained comprehensive and appropriate protection for these outworkers and as such part 4 should be omitted to avoid unnecessary and confusing duplication of the laws. Concerns have also been raised that these bills will lead to greater confusion in the textile, clothing and footwear industry as outworker entitlements will be enforced under state law, whereas proceedings for a review of unfair contracts must be instituted under federal jurisdiction.

The legislation as drafted does little to protect outworkers who are already in a vulnerable and often exploited position. Instead this legislation as drafted will significantly reduce outworker entitlements. After investigating these concerns, the Senate committee report included a unanimous recommendation that part 4 of the bill dealing with protection for outworkers in the textile, clothing and footwear industry be omitted. The government’s own senators concluded that part 4 ‘serves no useful purpose’. It is extremely disappointing that the government contemptuously introduced this legislation prior to the completion of that inquiry and paid no regard to the good work of even their own senators on that committee.

It is now, of course, understood that the minister will dump this section of the bill, and I have to say that I commend that decision. The question is: what was the government’s rationale for introducing this legislation when it did? How narrow was its consultation and research in developing this legislation, and how seriously can we take a government which proposes legislation which it has no confidence in and now recognises as wrong? To me this is further proof that this government is simply seeking to impose its anti-worker and anti-union ideology on the people of Australia with scant regard for the consequences that this legislation will have on their overall working conditions and, indeed, their lives.

Finally, I would like to discuss the so-called sham arrangement provisions in this legislation. The provisions are intended to apply where workers are categorised as independent contractors where in fact they are in an employment relationship. These provisions in themselves are a sham and will be completely ineffective in preventing this from occurring. As the legislation does not define the difference between independent contractors and employees, it remains fundamentally flawed and invites exploitation.

As the ACTU have recently reported, this is particularly an issue for young workers who are especially vulnerable to exploitation. This legislation does nothing to protect teenagers from being recruited to sell food and drinks at football games for a 10 per cent commission or working on building sites on low wages and with inadequate accident insurance. This legislation does nothing to prevent this exploitation nor does it do anything to prevent employers contracting out their workforce and failing to take responsibility for the entitlements of their employees.

Those employees who are most likely to be exploited by sham contracts are those who are least able to stand up for themselves and least likely to be able to put together a case at the Federal Court or the Federal Magistrates Court or afford to have someone else represent them. This government refuses to protect those workers who most need protection and has again let down our young Australians in its attack on their job security.
In my electorate of Calwell, we are fairly lucky to have a number of community based organisations who provide assistance to people in financial or personal crisis situations. These crises largely result from job losses and strained household budgets. When people are detrimentally affected by this government’s legislation, be it the fallout from Work Choices or the fallout from Welfare to Work, it is organisations such as the Brotherhood of St Laurence and UnitingCare who are there to try to keep people’s lives together through emergency relief, financial counselling and family support services.

Given that this legislation is further putting at risk job security and entitlements of workers, it is important to note what groups such as the Brotherhood of St Laurence and UnitingCare have to say about the legislation, as ultimately they will be the ones left to handle the fallout in the community. In a submission to the Senate committee inquiry, the Uniting Church in Victoria stated several principles which the legislation should conform with, including:

… laws pertaining to independent contracting should be measured against the potential impact on those most vulnerable (those people with the least ability to bargain for decent remuneration and conditions at risk of ‘sham arrangements’ or unjust contracts);

… … … …

Commonwealth laws should not override State laws in such a way that allows for less protection to be provided to those most vulnerable.

The submission concluded by stating their concern:

… that the proposed changes to independent contracting arrangements will unfairly disadvantage those most vulnerable, leaving them open to exploitation unless necessary amendments are made ...

Similarly, the Brotherhood of St Laurence recommended in their submission to the inquiry that outworkers be excluded from the legislation in order to preserve the protections provided to them under state laws. They also recommended that part 4 be removed in its entirety and that the sham contracting provisions be amended as they fail to provide specific provisions to ensure outworkers cannot be called independent contractors in order to avoid penalties.

Many other submissions were made to the inquiry that had similar conclusions. I think that these submissions need to be taken into serious consideration. I want to quote comments that were made by the Transport Workers Union in relation to their submissions, because, as I said, I have many owner-drivers in my electorate and in my state of Victoria, and the TWU work extremely hard to protect the rights and privileges of their members. It is the view of the TWU that:

While the exemptions do not go far enough to protect owner-drivers nationally, for owner-drivers and their families in New South Wales and Victoria, they will maintain a critical system of safe and sustainable rates that, without driver and public safety, would be threatened. They will also maintain the protection of the owner-driver small business model, which provides security to these unique small business operations and industry stability.

As my many colleagues before me have said—and my colleague before me used similar words—the effective message that this legislation has for the workers it affects is, ‘You are on your own.’ In an unequal bargaining position with a superior contract partner, they will effectively be on their own, with no access to state based protections, no access to unfair contract provisions and no access to employee-deeming provisions. For these reasons I oppose this legislation. It is a further attack on the rights and security of workers both in my electorate and generally in Australia, and I support the amendments moved by the member for Perth.
Ms OWENS (Parramatta) (6.57 pm)—I stand to speak on the Independent Contractors Bill 2006 and Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006. When I saw this title on the Notice Paper some time ago I thought this would be an interesting debate. I was looking forward to seeing the draft of this bill because it provided such extraordinary opportunity for this government to do something real for an extremely important section of our society and our economy: independent contractors.

What we needed was a bill that provided incredible flexibility for equal partners but also very strong protection for the weak—those in weak bargaining positions and those who are really employees but are being forced into work situations under the name of contractors. We needed to recognise that there is an increasing range of workplace agreements in place that have developed over several decades, and increasingly in the last 10 years, and that there are systems already in place at the state level that have been developed to provide protections for the many people in this area.

I have to say I do not know where to start with this legislation. On the one hand, it is late. The government has been in office for 10 years—10 years of massive change in the workplace, an increase in contracting out and quite a lot of shades of grey in employment relationships. Only now, after 10 years, do we see a bill from a government that claims to be a government for business, and it is the wrong bill. It is a bill that belongs way back, the last time John Howard was in government. It assumes that we still live in a world where there are employees and contractors, everybody agrees on what they are and there is nothing in between.

This bill ignores the reality of life in the workplace in 2006, a reality that has developed over many years. There has been a gradual mixing up in the workplace of notions of employee and contractor, and there are now many more shades of grey. Patterns have emerged in some areas, particularly construction and transport, of workers who were once employees becoming dependent contractors. These are not small business operators in the real sense. They are employees in a slightly different kind of relationship with their employer, but they are still essentially employees. This group call themselves dependent contractors. This is the real world.

We have also seen a growing number of sham contracts, where people are stripped of their entitlements and conditions, pushed onto contracts that are really employment contracts by another name—but without the entitlements and protections—and left to be responsible for their own super, sick leave and holidays.

Estimates vary as to the total number of independent contractors operating in Australian workplaces, but the Independent Contractors of Australia claim that independent contractors as a percentage of total employment have grown from 16.4 per cent in 1978 to nearly 20 per cent in 2004, or 1.9 million employees. Whether that figure is right or whether the ABS has it right at around 800,000 in that year, it is still a hell of a lot of people—somewhere between 800,000 and two million. And then you can include their families. Those people and their families have come to rely on strong state legislation and systems of working and negotiation that have developed over time.

During that time, the unions have also done an extraordinary job in representing a group of workers that have gradually moved from employment contracts to dependent contract arrangements. State governments have also acted, building a network of protections and freedoms for genuine independ-
ent contractors, for workers caught by industry practice called dependent contractors and for workers caught by employer ignorance or greed in sham contracts. All the regulation and systems put in place acknowledge the clear definitions of the sixties and seventies, and it seems the government is more comfortable there—those decades where what you actually were was what you were called. You were a contractor or an employee. Those definitions have broken down with time.

Contrary to the view that I have heard expressed here by several members of the government speaking on this bill, people forced into sham contracts and, quite often, dependent contractors are not necessarily entrepreneurs. They are not people waiting to be released from the shackles of unemployment, which you would believe if you listened to the member for Greenway. They are not entrepreneurs waiting to explode into the small business world. They are actually employees. They see themselves as employees. They have the skills of employees, not small businesses. They are not entrepreneurs by any objective test; they are employees.

We also find dependent contractors called independent contractors in this bill. These are people who might provide their own tools or vehicle but who work regular hours at the direction of their employer. They cannot subcontract to another worker or send an employee of their own to replace them. They work a full-time week and cannot contract to another employer. They are dependent contractors at best and, at the most basic level, employees by another name. The workplace in this decade is a very messy place. There are employees and genuine independent contractors, but between those two there is a range of people who live in a shade of grey.

The employee has already been dudged by the Howard government’s extreme industrial relations legislation, and with this bill quite a few more will be dudged. I will say, though, that at least in this bill there is a transition period, which is not something that was given to Australian workers when Work Choices, or ‘Work Lack of Choices’, was introduced last year. It is much more than the Australian worker got under that piece of legislation. Howard’s love for business and his contempt for workers will work in the favour of workers who have been inappropriately called contractors. At least in this legislation you can see the trouble coming through that transition phase. At least these workers, which again John Howard thinks of as contractors and therefore deserving of more respect than employees, will get to rearrange their finances and look for other work as they see that transition period move them towards a much harsher environment than they currently enjoy.

Transition period or not, it is the middle ground that has been most dudged by this bill. Actually, they have not been left out of consideration; they have been misunderstood and left with considerably less than they have now, because the middle ground does have protection now. Over time, as the workplace changed so too did state legislation. A raft of protections, representation by unions, including collective bargaining, and state law provide safety mechanisms, and unfair contract law at state level provides considerable relief for those who are unfairly treated and have unequal bargaining positions.

One of the key protections that have been built up over time and dismantled in these bills is the state laws with employee-deeming provisions. Deeming provisions in state IR law deem certain categories of independent contractors to be employees and grants related entitlements to those independent contractors. In New South Wales, for example, certain categories of workers are declared to be employees and brought
within the scope of industrial regulation, even though they may be independent contractors at common law. These deeming provisions cover a fixed range of occupations and include milk vendors, cleaners, carpenters, joiners, bricklayers, painters, bread vendors, outworkers in clothing trades, timber cutters and suppliers, plumbers, drainers, plasterers, blinds fitters, council swimming centre managers, ready mixed concrete drivers, Roads and Traffic Authority lorry drivers and others as prescribed by the regulation. These state provisions recognise the unequal bargaining power of these categories of workers compromises their ability to negotiate fair and reasonable working conditions. In many cases, working arrangements for workers in the deemed categories are not different in any real way from those of employees. Often they have little understanding of how the work relationship will operate before they enter into it. State deeming provisions offer protection to workers from disguised employment relationships.

The government has allowed a transitional period, though it does vary across industries. Generally, deeming provisions will continue to apply to existing contracts for three years after the commencement of the act and parties may leave early, if they wish to, under section 33. Three years down the track, though, the result of overriding the state deeming provisions will be to leave many vulnerable workers in unfair bargaining situations and without access to basic entitlements.

A second concern relates to state transport owner-driver laws, particularly for me those of New South Wales. The bill does provide for an exemption for New South Wales and Victoria owner-driver legislation but will review that exemption in 2007, which means that it is possible and perhaps likely, given the track record of this government of delaying anything nasty until after the election, that we will see an end to the state transport owner-driver laws sometime after the next state election.

Those state laws have served New South Wales well. When it comes to owner-drivers—those men and women who drive tip trucks through our suburban streets, for example—the state laws provide a base level of conditions and income for owner-drivers so that we do not have a situation where in order to pay the costs of their vehicles drivers will drive uninsured, overloaded or over-tired. The base level of contract which has been collectively negotiated ensures that a driver can drive safely through our streets and still make a living. It is in no-one’s interest to see those conditions downgraded. It is in no-one’s interest—in fact it is a safety issue in the community—to see drivers forced into situations where they cannot afford appropriate insurance or the repair of their vehicles and where they are forced to work longer hours than are safe. Those laws have worked very well in the state of New South Wales and have created a basic living for a range of people who choose to take a slightly different path in their working lives from a regular employee or, for that matter, a small business owner.

Those laws apply only to single-vehicle owner-drivers who are dependent contractors with one company. Those drivers are often required to brand their vehicles with the name of the company for whom they work. They cannot work for other companies; they cannot send in a replacement driver. They are effectively totally dependent on the one company for which they work. As such their bargaining positions are negligible without that collective bargaining power which up until now they have had through some very effective unions that have worked tirelessly and found new ways of representing a group of people who have moved over time from the employee to the dependent contractor.
relationship. This exemption for both New South Wales and Victoria is due to be reviewed in 2007. The review opens up the prospect that some exemptions will cease either before or, most likely, after the next federal election if the government is re-elected.

A third area of very real concern is the exclusion of the state unfair contracts jurisdiction. Independent contractors under this bill will no longer be able to access state unfair contract laws. The bill creates a federal unfair contracts jurisdiction, but it is less than those that contractors currently enjoy under the states. The tests of the states are much broader and much more easily accessed. Quite frankly, the government’s sham contracting arrangements are an absolute sham.

The explanatory memorandum describes a sham contract arrangement as an arrangement through which an employer seeks to disguise an employment relationship as an independent contract in order to avoid responsibility for the legal entitlements of an employee. This type of arrangement is an absolute blight on our labour market; it is an absolute abuse of the system, and all members in this place know it is far too common. But this bill seems to be written as if the assumption is that people who get caught in unfair contracts are all actually functioning small business operators. That is not the reality. The majority of people who get caught in these sham arrangements are actually employees, quite often at the lowest skill levels in our community. They are people who are being forced off regular employment agreements, with all the entitlements, and forced into sham independent contract arrangements. This bill, again assuming that these people are actually powerful entrepreneurs in their own rights, reverses the onus of proof and requires the contractor to demonstrate that they could not reasonably have known that the contract was an employment contract rather than a contract for services. It requires the worker who has been forced onto a sham contract to prove that the employer did not know that this was actually a genuine employment contract.

Because such cases are fought out in the Federal Magistrates Court and not by the Industrial Relations Commission they are across jurisdictions, so any affected worker who manages to get through the complexities of the system also faces the prospect of having costs awarded against them should they be unsuccessful in challenging a sham arrangement. This bill assumes a very black-and-white world. Again, it assumes that you are either a small business person or an employee. It totally ignores the extraordinary conditions that some people find themselves in: unskilled in the ways of business, employees for most of their lives—usually in an unskilled occupation—and suddenly forced into the commercial world. They are taken out of an industrial relations system where up until now there has been an umpire prepared to independently consider their circumstances, and forced into a situation of lawyers, legal costs, the court system and the extreme complexity of commercial law.

This is an extremely complex bill. It provides an additional layer of complexity. The provisions are highly prescriptive and introduce a whole new range of concepts—for example, pre-reform commencement contracts, continuation contracts, related continuation contracts, remedy contracts, test contracts and the contractor law test designed to clarify the continued application of the state contract deeming provisions to relevant services contracts. Most small business operators I know are too busy getting on with their lives and running their businesses to try and get their heads around what all that means. And an employee who is being squashed into a contract relationship that is unwanted and inappropriate does not have
time or, perhaps, the expertise to get their head around all of that. I had fun writing it myself.

Some types of contracts that are entered into after the commencement of the bill will be subject to relevant state laws and others will not, depending on whether they satisfy a range of technical requirements. This bill does not deal with the complexities that are already in the real world, but it does add a whole stack of new ones. It is absolutely ideology gone mad, this absolute belief that the market will sort it out and that there is a group of people in the workplace desperate to blossom into entrepreneurs as soon as this nasty industrial relations system is ripped out of the way and the way is made clear.

I find that anybody in Australia who wishes to be an entrepreneur probably already is one. There are no barriers to entrepreneurial activity in this country, and there are many people who are doing it quite well, even with an industrial relations system which the government clearly believes has been an appalling burden over last 10 years. I find it difficult to understand how it has been such an incredible burden on the one hand and yet the government brags about the growth that has been achieved over the same time.

This might be the first bill to include the role and classification of independent contractors under legislation, and it probably is time, as I said initially, that that was done, because this is a growing area—not only in numbers but also in importance. But this bill does not bother to define this. The principle underpinning this bill is that the contracting relationship should be governed entirely by commercial law, not by industrial law. That has been the case for quite a while, and reaffirming it does not add anything for those who are genuine independent contractors. In fact, by removing independent contractors from the flexible state unfair contracts law, it removes protections and flexibility.

There has also been concern expressed that, while a worker may be hired on a commercial contract basis, they may meet the definition of an employee for tax purposes. The tax office does have its own definition, and now we have two ways of looking at ‘employee’ and ‘independent contractor’ definitions. Alienation of personal services income, the PSI tax rules which came into effect on 1 July 2000, removed most tax advantages for personal services contractors, while independent contractors must cover expenses for salary continuance, superannuation—(Time expired)

Ms HALL (Shortland) (7.17 pm)—The legislation before the parliament tonight demonstrates the core differences between the government and the opposition. The legislation is based on a philosophy that is immersed in the ideology of the Liberal Party, one that is determined to deny Australian workers a fair go. It is legislation that delivers to backers of the Liberal Party. It is anti worker, anti union and anti a fair go. It embodies the values of the government rather than the values all Australians hold dear. It is market driven. It is legislation that is pure Liberal Party rhetoric, a present to its backers. It is a blatant grab for power. It once again demonstrates the hatred of this government. It demonstrates the government’s determination to take control of all areas of government, to take power away from the states and to place control in its own hands. This is a government that is drunk with power, and this legislation fully demonstrates that.

The Independent Contractors Bill 2006 sets out a regime to recognise independent contractors as bona fide workplace relationships, overrides state laws which deem certain workers to be employees, creates a
framework of protection for TCF workers, moves unfair contracts jurisdiction from the Workplace Relations Act and limits review to service contracts. This bill makes amendments to the Workplace Relations Act 1996 to provide penalties for employers seeking to disguise employment relationships as sham contracting relationships and misrepresenting employment relationships as contracting relationships.

The central principle underpinning this bill and the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006 is that independent contracting relationships should be recognised and supported and that the appropriate mechanism for regulation is commercial law not industrial law. Commercial law is based in the hands of the federal government, as opposed to industrial law, which is based in the hands of the states.

I draw the House’s attention to an inquiry into independent contracting and labour hire arrangements that took place in this parliament. The report was tabled in August 2005 and it made a number of recommendations. Recommendations Nos 1, 2, 5, 6, 7, 8, 9, 10, 11 and 13 were supported unanimously. There were 16 recommendations in this report, and a number of the recommendations that members of the government supported were not included in this legislation. There were also recommendations put forward by the committee members on this side of the House, and I will talk about them a little later.

But first I need to put on the record that the process undertaken by that committee was flawed. ‘Why?’ you might ask. It was flawed because the Minister for Employment and Workplace Relations released his discussion paper during the inquiry. He pre-empted a lot of the findings of the inquiry, and he sought to influence that inquiry. We on this side of the House are not shocked by that because it has become common practice. This government is about one thing and one thing only: it is about achieving its agenda and satisfying those backers who benefit from the legislation that we have before us today.

This legislation increases the complexity of an already complex industrial relations system. It is highly prescriptive and technical and introduces a confusing array of concepts. As the New South Wales government has identified, there are examples of pre-reform commencement contracts, continuation contracts, related continuation contracts, remedy contracts, test contracts and a contractor law test designed to clarify the continuing application of state contracting or deeming laws. That is highly prescriptive and creates a lot of confusion in the workplace. In addition, some types of contracts entered into after the commencement of the bill will be subject to relevant state laws while others will not, depending on the satisfaction of certain technical requirements. It is a situation that will be very confusing.

Whether or not a person is an independent contractor will simply be decided at common law. Issues that will be looked at are: the degree of control the worker has over the work; the degree to which the worker is treated as part of the principal enterprise; if the worker wears a principal’s uniform; whether the worker uses his own tools and equipment; whether the principal pays the employer; whether the principal has the right to dictate hours of work or if it is at the worker’s discretion to work and they can refuse them; the provision of leave, superannuation and other entitlements paid by the principal to the worker; the place of work; whether the worker has the right to delegate work to others; whether the worker provides similar services to the general public; whether the worker is provided with skilled labour; and
whether labour requires special qualifications.

In the inquiry into independent contractors the government members of the committee were very supportive of whether an employee was an independent contractor being decided in accordance with commercial law. But the members of the opposition who were on that committee felt that that was not the best way to deal with this matter. It was felt that the Australian government should provide a new definition of employee. That definition of employee would be used to determine whether a person was in an independent contracting arrangement or whether they were an employee simply on the basis of looking at whether that person satisfied the definition of an employee. Members on the other side were not supportive of that. They supported the common-law position. They adopted components of the income tax assessment alienation of personal services income legislation to identify independent contractors. That was their recommendation, whilst we in the opposition said there would be no need to define an independent contractor if the proposed employee definition were adopted. I do not think there could be a more vivid example of how ideology has driven where this government has gone on this issue.

The bill overrides all existing deeming provisions contained in state legislation, which deem certain categories of independent contractors to be employees and contain provisions granting employees related entitlements as independent contractors. In New South Wales, the state that I come from, there are certain categories of workers that are declared to be employees. These include milk vendors, cleaners, carpenters, joiners, bricklayers, painters, bread vendors, out-workers in the clothing trades, timber cutters and suppliers, plumbers, drainers, plasterers, blind fitters, council swimming pool managers and supervisors, ready-mix concrete drivers, road and traffic authority lorry drivers and others prescribed by regulation. These provisions seek to redress an imbalance of power in those categories of workers which compromises their ability to negotiate fair and reasonable working conditions. The state laws recognise the vulnerability of those workers. It is because of their vulnerability that they have been deemed employees under the legislation. The Commonwealth seeks to override the state industrial relations legislation. There is to be a three-year transition period from the date of the commencement of the principal bill and the preservation of existing deeming protection for outworkers and owner-drivers. Textile, clothing and footwear outworkers are deemed to be employees under state laws. They will continue to be deemed so.

The bill provides independent contractors who have previously been deemed employees under state legislation a three-year transition period after the commencement of the legislation, to give business and workers time to adjust. Only deeming provisions in industrial relations laws will be overridden. That is very interesting, isn’t it? It is only deeming provisions in industrial relations laws that will be overridden. Occupational health and safety legislation and workers compensation legislation will remain untouched. I see this as an example of a government driven by its philosophy to override and change the face of industrial relations in this country. It is not about a fair go for the worker; it is not about what is best for Australia; rather, it is about delivering to their backers a system that they believe Australia should have. It is about maximising profits to the big end of town whilst ignoring the needs of the little person who is involved as an independent contractor—an area, I might add, that is growing. More and more people are working as independent contractors, and this
government’s legislation is pushing people into those relationships.

The state deeming provisions, as I have mentioned, will apply for three years, and parties may leave this earlier if they wish, or they can enter into a reform opt-in agreement. The bill recognises that unforeseen circumstances may arise which will lead to the loss of accrued entitlements of independent contractors who have been deemed by state or territory laws to be employees. In other words, the workers will miss out. Once this comes into force, those workers who are deemed to be independent contractors under this legislation will lose their entitlements. I do not think that is good enough.

During the inquiry that I referred to in my opening comments—the Making it work inquiry into independent contractors—the committee was privileged to take evidence from members of the Transport Workers Union. I think that the evidence the committee received from those workers—those owner-drivers—was some of the best evidence that has ever been presented to a committee of this parliament of which I have been a member. We had many drivers there who gave evidence to the committee and told the committee their stories. They told how they struggled on a daily basis to meet the repayments on their trucks, keep their trucks in sound working order and meet deadlines that were placed on them by the contract they worked to. All of those drivers worked for one large carrier. They had the name of that carrier on their trucks and they were 100 per cent responsible to that contractor.

The TWU expressed concerns about the broad regulation-making power of this bill. Subsequently, they also have expressed concerns about unfair contract provisions that are inferior to those in New South Wales and Queensland and how they are being overridden, the sham independent contracting arrangements—and I will be talking a little later about those sham arrangements—and concerns that misleading representations have to be made to an individual to be prohibited.

This government has given an exemption to owner-drivers in New South Wales and Victoria until 2007. I am highly sceptical of this exemption because this government has a way of manipulating situations. This government has a way of changing once it has achieved its goal. I think its goal in this case is to win the next election. It is worried about the flak it will get if it does classify all owner-drivers as independent contractors. It is interesting to note that the member for O’Connor has been quoted as saying that the position of the Minister for Employment and Workplace Relations is arrogant and that the review of legislation proposed for 2007 is just a way to quieten the backbench. The minister is saying that he is legislating for an exemption because of threats from the TWU but he might then revisit it in a few months before the election, after some kind of review. Well, pigs might fly! I have my concerns about where the minister is going with this review.

I have talked about the common-law test and how I believe it is an inadequate way to determine whether or not a person is actually an employee or an independent contractor. I have also mentioned the state laws and the deeming provisions that this government seeks to override. The situation of workers in the TCF industry is another area about which I am very concerned, because this bill will do little to protect outworkers without the proper application of state based outworker legislation, which this government seeks to override. Finally, the section reflecting on sham arrangements is inadequate and I think the government really needs to revisit it and look at other definitions of sham arrangements.
In conclusion, I would like to say that this is mean-spirited legislation introduced by the most mean-spirited government Australia has ever had: a government that panders to the wishes of its supporters as opposed to legislating for the good of all Australians. The legislation is bad legislation and it will impact on the most vulnerable workers in Australia. (Time expired)

Ms KATE ELLIS (Adelaide) (7.37 pm)—In rising tonight to speak on the Independent Contractors Bill 2006 and the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006, I would like to take the opportunity to express my fierce opposition to this legislation. Let us all be absolutely clear that this legislation will hurt ordinary working Australians. Ordinary working Australians like drivers, cleaners, clothing outworkers and electricians—whom this government is already slugging with interest rate rises and who are already suffering because of higher petrol prices—are well and truly in the government’s sights with this legislation.

In my contribution to this debate, I would like to outline my general opposition to these attacks, speak with particular reference to this nation’s owner-drivers, and then outline my support for the amendment which has very sensibly been put forward by the member for Perth. We have heard from several other speakers about the main implications this legislation will have if passed—particularly the distressing social and economic impact that it is likely to have. In particular, we have heard that this legislation must not be seen as a single attack on Australian workers but as a part of the Howard government’s wider agenda of extreme changes to Australia’s industrial relations system. I will speak further on this later in my contribution.

I would like to thank the other members from this side of the House who have spoken on these bills with a high degree of passion and with a very detailed understanding of the implications that they are likely to have for many Australian workers. I also take the opportunity to point out the very limited contribution by government speakers to this debate. Very few members of the government have bothered to even enter the chamber and advocate in favour of these proposals—which leads one to wonder whether they are actually unable to defend the indefensible and whether they too recognise that this legislation is fundamentally flawed and must not be supported. It certainly appears that way. If that is the case, I would urge those government members who do not have the courage to come in here and advocate in favour of these changes to have the courage to stand up with the Australian Labor Party and vote against them. I will not hold my breath that I will see this sort of courage.

The report of the Senate Employment, Workplace Relations and Education Legislation Committee’s inquiry into these bills made a constructive contribution to the legislative process. However, the fact that the Minister for Employment and Workplace Relations, Mr Kevin Andrews, commenced debate on these extreme laws in the House of Representatives before the committee’s report had even been concluded confirms the government’s arrogant, out-of-touch attitude to the Senate committee review system. It shows that they are being driven not by a view towards providing good public policy for the Australian people but by their own ideological obsessions.

Sadly, there are many problems with this legislation, and I will expand on some of them. This legislation makes our complex industrial relations system even more complex. It is confusing and it adds to an overburdened small business sector which is al-
ready being swamped in red tape. This legislation also overrides all existing deeming provisions contained in state industrial legislation which deem certain categories of independent contractors to be employees and it overrides provisions granting employee related entitlements to independent contractors.

Further, independent contractors will no longer be able to access state unfair contracts laws. This is something that I think is absolutely outrageous. Where are the protections for these people? Overriding state unfair contracts legislation could further water down protections for consumers and for many of our small businesses. These bills will do little to protect outworkers without the proper application of state based outworker legislation. As drafted, the legislation will have the effect of significantly weakening outworker entitlements.

According to research from Melbourne University, up to 40 per cent of workers said to be contractors actually work for only one principal employer and are therefore dependent contractors, not independent contractors as the government has claimed. In essence, these changes mean that if you are classified as a contractor, you will fall outside of the government’s minimum standards. That means, for you, that there are no minimum standards at all.

These proposals will allow genuine employees to be pushed out of the employer-employee relationship and to be treated as independent contractors. This means reduced entitlements, conditions and protections. This is a point which was recognised in the Labor senators’ minority report. The report states:

The basic policy aim of the Independent Contractors Bill is to turn as many employees as possible into contractors. In the Government’s view, and more particularly in the view of employer organisations close to the Government, industrial relations are greatly simplified by arrangements which put employees onto either Australian Workplace Agreements, or turn them into contractors. Work Choices is intended to encourage the first of these trends, and the Independent Contractors Bill is intended to encourage the latter development.

The minority report goes on to say that this bill:

… is intended to turn natural employees into unnatural contractors.

This exercise smacks of a readiness to misuse and misdirect labour skills across the workforce at a time of skills shortage. What is more, because the legislation does not seek to define the term ‘independent contractor’ beyond its meaning under common law, these employees will be subject to the added burdens that normally fall under the responsibilities of an employer, such as the burdens of superannuation, taxation arrangements and workers compensation. At common law, employees are engaged under a contract of services, whereas contractors are engaged under a contract for services. This means that an independent contractor is generally a person who is engaged on a labour-only contract, usually determined as a one-off flat rate. Typically, the independent contractor will be burdened with a range of responsibilities that usually fall on the employer.

Professor Andrew Stewart, who is very well versed in these matters, has aptly identified the practical limitations of the common law in stating that the definition of ‘independent contractors’ under common law means that they will be exempt from:

... a wide range of regulation which is typically applicable only to employees, such as industrial awards, registered agreements, leave and superannuation legislation, and unfair dismissal laws.

This legislation further fails to address occupational health and safety issues, which were the subject of recommendations in the Senate inquiry.
What is more, this legislation introduces even more confusion into our industrial relations system. It makes things even more complicated. These bills will have a negative impact upon many workers, including outworkers, owner-drivers and other contractors deemed by relevant state and territory legislation to be employees. In addition to the removal of the state unfair contracts legislation, unfair contract matters will now be tried in the Magistrates Court, a much more formalistic jurisdiction. Some of the key problems that arise with removing unfair contracts jurisdiction from the state system include the expense, length and complexity of arguments and the exposure costs to order.

This legislation does nothing to address the increase in use of independent contractors by employers but strips independent contractors of access to protections under state legislation, such as superannuation and workers compensation. It allows employees to be reclassified as independent contractors and thus reduces the entitlements of employees and the financial obligations of employers. As the Australian Workers Union has acknowledged, the incentives for abuse are too great and the legislation fails to act as a reasonable deterrent to such abuse.

I would like to focus further upon the impact this legislation will have on owner-drivers. It is a very sad fact that, as has been reported, at least two truck drivers are killed each week, with accidents largely due to overdriving and the misuse of stimulant drugs. These statistics are appalling and are something which the government should be employing its legislative power to try and prevent. But instead, for these small business people or contractors in dependent contract positions, this legislation will take away access to laws which protect against unfair contracts and remove employee-deeming provisions that ensure protections for small businesses and contractors from a range of state jurisdictions. Many of the state based protections will be stripped away by this legislation, as well as many conditions, entitlements and protections.

Owner-drivers are a particular group who are likely to feel the impact of these bills. Owner-drivers are single vehicle operators, the vast majority of which perform work exclusively for a single transport operator. They are often highly dependent upon those with whom they contract. Such dependence leads to an inequality of bargaining power and the associated potential for exploitation. To the economists out there, owner-drivers represent price takers, not price makers.

The Transport Workers Union have run a very effective campaign to represent their members and have managed to achieve an exemption for owner-drivers in New South Wales and Victoria. While I think the government must be criticised for not going far enough to protect South Australian owner-drivers, I note that as a result of the Transport Workers Union’s campaign owner-drivers in New South Wales and Victoria will maintain a critical system of safe and sustainable rates, without which driver and public safety would be threatened, and the protection of the owner-driver small business model, which provides security to these unique small business operations and industry stability. These protections for owner-drivers in the New South Wales and Victorian legislation are in the public interest. They contribute to a stable, sustainable and productive industry, and there is no evidence that the New South Wales or Victorian systems which contain these protections are less competitive or productive.

I will refer once more to the Labor senators’ minority report, which stated: ... the bill still falls significantly short of delivering assurance for owner-drivers. While the vulnerabilities of owner-drivers have been recog-
nised nationally, the bill as presently drafted ignores this fact. It will have the effect of overriding the operation of the pending WA and ACT laws and preventing any state from enacting future legislative protections.

The fact that the government is to review the exemption for New South Wales and Victorian owner-drivers opens the possibility that either before or after the next federal election the exemption for New South Wales and Victorian owner-drivers will be ceased. This means that the only part of this legislation which has not completely made a mockery of protections for owner-drivers could be stripped away. On the evidence that I have seen so far, I have to say that when the government says that they are going to review something just after an election it normally means that they are going to do something very unpopular.

We will certainly be working very hard to make sure that the government do not win the next election, because there is a whole host of things that they want to force upon the Australian people at that point. They would be very busy just after the election. Today, the sale of Medibank Private has been added to the list of the things that they seek to do after the next election. Many people can be forgiven for feeling cynical about the fact that the government also seeks to review this particular exemption at that time.

Transport Workers Union spokesman Tony Sheldon has said:

We have higher incidents than all other industries, including mining. Drivers have had enough. We need to take the economics out of long-distance driving by giving them minimum safe rates.

I absolutely agree with Mr Sheldon on this point. The member for Watson, who joins me in the chamber, has also been very passionate in his defence of owner-drivers and in his belief that we must do everything that we can to ensure the safety of these professions. I find it very disappointing that the government, in contrast, is being so insensitive. Minister Kevin Andrews has admitted that truck drivers have ‘particular vulnerabilities’ and thus need ‘special protection’. So why are we heading down a deregulation path that looks as though it will inevitably cut wages and encroach on vital security measures?

Despite government assertions that the legislation is intended to protect independent contractors, the legislation does no such thing. When are we going to see some honesty and integrity from this government? When is their war on Aussie workers going to end?

I have already spoken about the safety concerns owner-drivers face every day. I believe that as a parliament we must ensure that these concerns are alleviated. We must do everything in our power to ensure the safety of owner-drivers and other drivers on our roads and highways. This legislation is not just about industrial relations, although it is clear that the passage of it will culminate in reduced wages, conditions and entitlements for Australian workers; this is once more about the government and their obsessions.

In defending this legislation the government has once again gone back to the argument that it is about choice. We see very clearly in this legislation that this is not about choice at all. Where is the choice when people are able to be represented by lawyers and employer associations—in fact, it would seem by just about anybody—but not unions. Under this legislation these people do not have the power to make the choice to be represented by a union. I think that is an absolute disgrace and shows very clearly just how false this government’s claims that it is doing this for choice really are. I am one person who is not particularly surprised by this. I have seen this in the government’s industrial relations reforms across the board.
In fact in my own electorate at the moment we have an ongoing industrial dispute which arose after the government introduced their so-called Work Choices legislation, which they say is about giving employees more choice as well. In my electorate there are currently 16 Radio Rentals employees who are being locked out of their place and denied any pay for the next month because they have decided that they would like a collective agreement. Where is the choice in that? Where is the choice for workers to try and pursue a fair collective agreement? Not under this legislation, it seems, at all.

I would also like to take a moment to commend the very sensible amendment put forward by the member for Perth. This amendment recognises a large number of the flaws in this legislation. It also notes that this bill follows on from the government’s extreme industrial relations changes, which are a massive attack on living standards and conditions, and that it removes rights, entitlements and conditions of Australian employees. This amendment also notes that this bill treats the Senate Standing Committee on Employment, Workplace Relations and Education reporting on these matters with contempt by dealing with the legislation prior to consideration of its report. But, again, this is something that we should not be surprised by. It is quite in line with the form of this government.

This government has absolutely no respect for the Senate committees or, in fact, any of the processes which have traditionally been set up in this place to ensure good public policy. This government does not seem at all interested in pursuing what is best for the national interest. Instead, rather than even seeking to hear what these inquiries have to say about this legislation, it is content to pursue its own ideological obsessions. I think that is incredibly sad. It is incredibly sad for the people of Australia that they do not have a government with their best interests at heart. They have a government that is so drunk on its own power, following the Senate election results, that it is doing everything it can to get rid of and attack unions and attack ordinary working Australians. I think it is outrageous and a disgrace. I will continue to argue both in this chamber and outside of it that this legislation should be defeated.

In introducing these so-called independent contractors laws, the government has only one message for Australia’s workers, and that is: ‘You’re on your own now. Don’t expect any of the protections that you are used to. Don’t expect to have any of the rights which most Australians would argue are what this country was built on. You’re on your own now.’ That is exactly the way this government wants it. That is exactly the reason they have included in this legislation that you cannot be represented by a union. They want all the workers on their own. They want the balance of power firmly with big business and not with ordinary working Australians. That is something that I will never stand for. It is something that the Australian Labor Party will never stand for. And I wish that it was something that not a single member of this House would support.

Mr BURKE (Watson) (7.56 pm)—I have to concede: when I watched the policy launch of the Liberal Party at the last election campaign, I did not see it coming. I heard the announcement from the Prime Minister where he explained that there would be independent contractors legislation. I sat there and thought: ‘That’s probably politically clever—putting legislation forward that no doubt will do something to improve the rights of independent contractors.’ I am sure that is what the Australian people all thought. None of us saw it coming. The position of independent contractors is extraordinarily important. It very much is the new economy,
the new workforce. So many people who used to be in employee-employer relationships are independent contractors. But we have ended up with legislation before us that actually does one thing that independent contractors do not call for.

Independent contractors will tell you many things that they want to happen. They will tell you about the need for less paperwork. They will tell you about the irritation that comes with the various tax forms they are constantly filling out. They will tell you about the frustration for many of them when they were transferred—and many of them were transferred—from an employee situation to an independent contractor situation and told, ‘You’ll be so much better off.’ There is a frustration that a whole lot of the tax provisions that were in place at the time of the transfer were very rapidly cut off within a couple of years of those transfers taking place. The lucrative nature of the transfer at the time it was made from employee to independent contractor ended up not lasting for more than two tax returns for many of these individuals. They will tell you about frustration after frustration when dealing with the head contractor—particularly independent contractors who deal with one head contractor and one head contractor only and who have no choice but to do so, given the branding of the vehicle, whether they are tradespeople, drivers or whatever their independent contracting relationship is. When they are effectively dealing with one head contractor there is frustration about all the power of that one person.

There is one thing that I do not think any of them call for. I do not hear any independent contractors saying, ‘What we absolutely need, the fundamental thing that we demand from the Australian government, is to be able to earn less.’ I do not hear cries from independent contractors saying, ‘The fundamental thing that we need is the right, when it comes to negotiation, to have the floor of the bottom rates cut from under us.’ That is the entitlement this bill gets them. There is nothing more to it—the legislation before us is actually that simple. Independent contractors are to be given that fundamental contracting right: to earn less. Curiously enough, the Prime Minister never put that in his speech. At election time, in the campaign launch, that was the one detail that the Prime Minister decided that he did not really need to refer to.

And I tell you this: without this legislation there are enough independent contractors who are earning less already. There are enough of them who are already earning less because they carry significant debt, they carry a mortgage over their vehicle and a mortgage over their equipment, whatever that equipment might be, and they have been hit by seven back-to-back interest rate increases. It is not simply owner-drivers who have been hit by petrol prices. Petrol prices are a significant cost to business—and do not think independent contractors were not irritated when they were all told by the Treasurer: ‘The one thing business must not do is pass this on.’ Obviously, none of us wanted the business costs to be passed on to consumers, but the impact of that was that they were worn by independent contractors. So they have had to put up with the interest rate hikes, they have had to put up with a reduced income through the impact of the petrol price increases—and now they get a new opportunity from the government: the fundamental right to earn less. They get told they are on their own. And while the number of protections for independent contractors has always been fewer than for employees—even in deemed situations they have never received the full package—now they end up with less protection. They end up with that being stripped from under them.
Who gets to keep them? The ones that get to keep some basic levels of entitlement are the ones who ran the biggest campaign—the ones who were the most unionised of the workforces and who ran a very effective television and, particularly, radio campaign which the government decided they had to listen to. If you ever wanted an argument for the power of trade unions, if you ever wanted an argument for trade unions being able to deliver a result, it is the government’s behaviour on this one. But do not pretend that the government are actually trying to deliver anything long term because, for the review of those provisions, from the moment this legislation is carried the clock starts ticking—and the clock starts ticking and does not stop ticking until after the next election.

Owner-drivers were in a particularly harsh situation. But look at the arguments that were run and ask yourselves: why was it that the government did not make an exemption on the basis of where those arguments apply? Why did they make a specific exemption for the situation of owner-drivers? The arguments are arguments of safety. The arguments are arguments of goodwill. When people purchase a business in the transport industry they do not just pay for the value of the truck; they do not just carry a mortgage over the value of the truck, or the vehicle if it is a courier business. They also carry a mortgage over the goodwill because they pay for the goodwill that goes with the relationship with the head contractor and the client base. So all of that gets packaged up at the time that they take it on, and all of that is a debt that they carry throughout the business and is a cost to business the whole way through—a debt that then costs them more every time they get one of these back-to-back interest rate increases.

The second thing that is a carry-on effect for people in the transport industry is the safety issue. There is a very serious safety issue which, interestingly, the government think is only a safety issue if you are travelling between New South Wales and Victoria.

Ms Kate Ellis—What about South Australia?

Mr BURKE—For travel to South Australia, as the member for Adelaide has raised, apparently the safety issue ceases to apply. Apparently it does not apply if you make it to Queensland. If you go on a really long drive and make it to Western Australia it does not apply there. I can understand that there is probably going to be a bit of difference because you do not get people travelling interstate to Tasmania by truck all that often. But what you do have is a situation where the safety argument is real, because if you drive rates down below a certain level then make no mistake about what will happen. You will put people in a situation where the way to make ends meet, the way to be able to afford the fuel and to continue to repay their debt and to service their debt, will be to travel more quickly and to sleep less. That is dangerous for those individuals. It is dangerous for everybody else on the road. But the argument is not limited to the road. It is dangerous if you have got an electrician who, in order to cut below reasonable rates, ends up in a situation where they have to work far more quickly than is a safe pace. It matters in a whole range of areas where you want to have thresholds so that you do not, under any circumstances, compromise safety.

The way you have been able to avoid safety being compromised in many of these industries has been to have minimum safe rates. They do not exist in every industry; they do not exist in every state. But from time to time arguments are made that we need to have minimum safe rates. That is the principle. Now why would it be that that principle only applies in New South Wales and Victoria? Why would it be that only that
is carved out, and that not only does it only apply in those areas but it only applies for a little while into the future? The answer is simple. The government wanted to get talkback radio off their back, so they decided to embark on a temporary compromise: to give a win for the time being to the TWU—which has championed the cause—but not to actually apply broadly the principles that were the basis of the campaign.

There is no attempt to acknowledge in this legislation that safety is an important issue for independent contractors. There is no attempt to deal with that at all. What we have got is a determination from the government to reduce the costs for head contractors. For head contractors when they are in a situation of employment, the way the government has gone about this has been through the WorkChoices legislation. The government has also decided that where the head contractor is in a straight contracting position, rather than an employment relationship, it will have the race to the bottom there. But where we had in Work Choices some concept of a minimum rate of sustenance for employees, what this legislation does is say, ‘No such minimum rates will apply to contractors.’

When I say that no contractors were calling for that, that is not quite true. There was one: the head of the Independent Contractors of Australia. When I served with you, Mr Deputy Speaker Barresi, on the employment committee we had the Independent Contractors of Australia appear before us. It might have been at the Perth hearing; I am not sure which hearing it was. I remember asking the question, ‘How many members do you have?’ And after question No. 3 we eventually got a shrugging of the shoulders and, ‘Well, it’s in the hundreds.’

The government wants to turn a blind eye to any trade union. We have the TWU, which has been representing owner-drivers, independent contractors in the transport industry, since the 1920s. We have the trade union movement and, sure, the majority of the trade union movement members are employees. But name one small business organisation that has more small business members than the Transport Workers Union. Name collectively a group of business organisations that have more small business members than the ACTU. It does not mean that the ACTU is the sole voice; I would not say that for a minute. But here is a voice that is disregarded when every other organisation is littler, and the principal advocate for this bill is just minuscule: ‘in the hundreds’. I am not sure what that meant. I think it meant: ‘I really don’t want to ‘fess up. Can you do me a favour and end the questioning there?’

Ms Owens—It could have been 101.

Mr BURKE—That is right—101 could well have been the answer, or 102 and we will take any advances. We do not even know if the independent contractors association has more members than there are members of the House of Representatives. There has been a lot of talk about sham contractors; what we have here is a sham organisation with a very clever name which means they are able to get media grabs by saying, ‘This is what independent contractors want.’ You cannot blame the media when the name of the association is the Independent Contractors of Australia. You would think it is a fair call that they might know something about it, until you look, firstly, at their membership and, secondly, at what they are trying to do.

I want to meet the independent contractor who wants his or her rates to be driven...
down. I want to find someone who is actually arguing for that entitlement, because they are about to be given it. They are about to be given that entitlement and nothing else. We have this all being framed as an issue of choice. Yes, choice is important, and so is feeding your family. You do not get a tremendous amount of choice, when it comes to making ends meet, as to what your minimum requirements for survival are. I do not want to see their families put in a situation of having real difficulties making ends meet—that is bad enough—but you then add to that the threat to their own safety and the threat to the safety of everybody who is either sharing a work site or a road with them.

These are actually really important, significant issues which were heralded to the election campaign audience as: ‘We’ll provide protection for independent contractors. They will be provided with protection from a safety net.’ When it comes to things you want to be protected from, a safety net is rarely on the list. But that is what is being provided here, and it happens in two ways. It happens first of all by taking people who have always been viewed as independent contractors and saying: ‘Right, you’re now not going to have any of these other rights which you might have been able to get under different parts of state awards. They’re gone. So, if you were enjoying having minimum rates, sorry, you’re going to enjoy more not having minimum rates. If you were enjoying an entitlement to workers compensation, well, you’re going to enjoy even more that you don’t get these entitlements anymore. Every entitlement you lose is a right you gain, and the right you gain is to earn less.’ That is what happens to the people who have always been known as independent contractors.

We then have the other group of people in what have been called sham relationships who have always been regarded as employees, and have seen themselves as such, who are now going to be told, ‘Guess what? You’re part of the new economy too. You’re also going to be an independent contractor. As such you get a new right. You get the right to charge as little as your most competitive competitor.’ This is less of a problem when people are running a bigger corporation, when people are running a business. When I ran my business we had three partners. It was a situation where you could bid lower than your competitors. You had a genuine tendering process and you had multiple contractors whom you were trying to gain business from. That was fine. That was just a straight open market, no worries.

It is much more difficult if you are tied to one head contractor, and that is the only relationship you are going to have. It is much more difficult saying, ‘I’ll pick up whatever courier work I can,’ if you already have ‘Toll written on the side of your van. You do not have the same opportunity as other business people to just shop around and pick up whatever business you want wherever you want. In those situations, what the government says is, ‘You’re on your own and whatever rights you might have thought you had are now gone for good, be it superannuation or be it workers comp. And for the small group that we’ll give it to and say, “Yeah, you’re in a special situation,” we’ll tie it down to two states for a handful of years, and have a review date just after an election.’

The government should be up-front about what they are trying to do. If you want to have an argument in this House about, ‘Is it fair for independent contractors to have an absolute race to the bottom and undercut each other as far as they want, and if that ends up hurting them and making workplaces and roads dangerous, then so be it?’ then let us have the argument. But the government should not pretend to be on the side of independent contractors and do it by
bringing in legislation that gives them nothing. It gives the dodgiest independent contractor the chance to undercut. It gives the dodgiest operator the chance to take contracts from others and operate in an unsafe way, to not spend money maintaining their equipment, or their vehicle if a vehicle is involved. It gives the dodgy operator the opportunity to do that. But what honest, hard-working people—the vast majority of people in contracting arrangements—will have by the time this legislation goes through is simple: they get less and they end up on their own.

So we end up with three pieces of legislation working together. We get the Work Choices legislation. We get the Dawson review legislation about collective bargaining under the Trade Practices Act. In that legislation, the government decided to abandon its rhetoric of choice and decided that independent contractors would be the one group that was not allowed to have a trade union represent them and would actually be banned from making that choice—a choice available to everybody else. I have to say, I used to believe the Prime Minister on his rhetoric that he was not against trade unions, that he just wanted to provide choice and that it was just compulsory unionism he objected to.

Ms Owens—More fool you.

Mr Burke—True, sad though it may be. It took until this term before we actually had legislation that said: even if you want them to represent you, it will be illegal. Whom did he choose to take that right from? Independent contractors and small business operators. They are the ones who the Prime Minister decided would lose the right of choice. So they get the Work Choices legislation, they get those amendments in response to the Dawson review I just referred to and they get the Independent Contractors Bill. At every stage they lose rights and they earn less.

Families will be in a tougher spot. Businesses will have the impact of this compounded with seven back-to-back interest rate increases compounded with what they are now paying in fuel. This will hurt people. The government knows that that is what will happen and it has not had the courage to be honest about what this bill is actually doing.

Ms Livermore (Capricornia) (8.16 pm)—The first thing that strikes me about this debate on the Independent Contractors Bill 2006 and related bill is the incredible lack of speakers on the government side. Once again we have the Labor members of this House standing up in the dozens to represent the people in their electorates—standing up for the rights of workers in their electorates. The government side, which introduced this bill, is just missing in action. This was a major policy announcement during the last election. You would imagine that the government members who were there cheering John Howard when he made this announcement would be here telling us how great it is going to be and how many hundreds of people in their electorates—hundreds of workers—are just lining up, not being able to wait to cash in their rights as employees and embark on their wonderful careers as independent contractors.

It says a bit that there are not too many government speakers saying any of those things. In fact, it is left to the Labor Party members to speak on behalf of people in our electorates to say how difficult this is going to make life for many people in a range of occupations. It is estimated that there are between 800,000 and two million independent contractors in Australia, which makes the lack of government speakers even more noteworthy. Surely not all of those people are in Labor electorates. Some of them have to be represented by coalition members. But where are the coalition members speaking up on their behalf in this debate tonight?
The minister, Kevin Andrews, was, typically, very excited about all of this. He was expounding his view of this brave new world of independent contractors out there in Australia and how exciting it was all going to be. In his second reading speech he told us:

Independent contractors are entrepreneurs, and the one-person micro-business of today is often the employing small business of tomorrow.

For many, the attraction of independent contracting is to operate independently, not to work as an employee. The flexibility that independent contractors provide the workplace is an important component of a modern and dynamic economy.

All those workers out there getting their pay packets every week must be wishing they could be independent contractors. That is all they want. They must be saying: ‘No, no; don’t give me that pay packet. Don’t tell me when I’m working next week. Don’t tell me that I’ve got guaranteed hours or a roster that I can rely on when I’m making my family budget or planning child care for my children. Don’t tell me those things. Don’t give me a pay packet. I want to be an independent contractor. I want to be out there on my own in this exciting new world of everyone wanting to be an entrepreneur.’

Again, if it is so exciting—if people are embracing this in their thousands, as the government would have us believe—where are the coalition speakers telling us all about it? We need to know what people in our electorates are missing out on. If they are not getting it, maybe we need to understand it so we can go back and tell them what they are missing out on in this new dynamic world of being an independent contractor.

But it seems like a bit of reality might have set in. Those of us on this side of the House who are actually in touch with workers in our electorates are getting a sense that they are not really that convinced about the government’s brave new world of no security and its ‘look after yourself’ attitude. Perhaps some reality is actually setting in on the government side because on 23 August this year the minister actually conceded that perhaps existing private contractors and small businesses are not all that excited about utilising the changes in this bill. The minister was quoted on that day as saying:

... as a result of independent contracting legislation there won’t be, I believe, any change in the number of independent contractors.

If it is so exciting, as the minister would have us believe, why is he now saying that it is not really going to make any difference to the number of people wanting to be independent contractors? That is quite telling in terms of Australians’ pretty understandable scepticism about the government’s great promises of a brave new world in this legislation.

If there are not the numbers of people, as the minister has admitted, wanting to be independent contractors, what is this legislation really all about? Again, it was all in the minister’s second reading speech. He practically had only said the name of the bill before he launched into his usual attack on the union movement, which has a proud history in this country of protecting and making sure that there is fairness for working people. The minister made it very clear that as far as the government is concerned this bill is all about the usual attack on workers.

The Labor senators on the Senate Employment, Workplace Relations and Education Committee’s inquiry into these bills decided it was about that too. They said:

The basic policy aim of the Independent Contractors Bill is to turn as many employees as possible into contractors. In the Government’s view, and more particularly in the view of employer organisations close to the Government, industrial relations are greatly simplified by arrangements which put employees onto either Australian Workplace Agreements, or turn them into contractors. Work Choices is intended to encourage the
first of these trends, and the Independent Contractors Bill is intended to encourage the latter development.

That was the view of Labor senators who served on that Senate inquiry—that this bill is really about turning as many employees as possible into contractors.

The question, of course, is what kind of contractors these workers are going to be. Many people are in genuine arrangements, where they have chosen to be independent contractors because it suits their occupation, it suits their skill set, and they have identified a particular niche market for their services and their skills. They are operating as genuine independent contractors, genuine micro-businesses. But that is not the case for an awful lot of Australians who are forced into contracting arrangements which are far from genuine.

I said earlier that it is estimated that between 800,000 and two million people are classed as independent contractors in this country. Of that number, 400,000 are contracted by one employer. So as many as half of the independent contractors are employed by one employer. They are more correctly categorised not as independent contractors but as dependent contractors.

The situation of dependent contractors in Australia got quite a bit of attention in the Senate inquiry. One submission came from the Australian Institute of Employment Rights, which is part of Monash University. They devoted part of their submission to looking at the very vulnerable situation of dependent contractors. They said that the bills:

... fail to recognise and distinguish dependent contracting from independent contracting. In so doing, they will enable the continuation and expansion of dependent contracting and disguised employment. Research has consistently identified negative outcomes associated with these practices. These include:

Absence of minimum employment entitlements designed to protect workers’ economic, social and health wellbeing, including a satisfactory work/life balance;
Excessive working hours without commensurate remuneration;
Higher risk of occupational injury to contractors;
Higher risk of occupational injury to those working alongside contractors;
Shifting the cost of injuries away from workers’ compensation systems onto injured workers and their families, and onto the general health system; and
Absence of investment in skills and training.

But of course the Howard government is not letting any of those extremely negative consequences for dependent contractors dissuade them from their ideological crusade in these bills.

Looking at that analysis and the negative consequences for workers who are in reality dependent contractors—they are contracted to one employer—what would the response of a responsible, caring government be? We know what the response of a responsible, caring government would be because the state governments in Australia have addressed this situation through deeming provisions in their laws. States have recognised that there are workers who are in vulnerable situations, particularly workers who are in these sorts of sham contracting arrangements and are deriving their income from, and are contracted primarily to, one employer. They are in a very vulnerable position and need protection.

There are state and territory laws which deal with this situation. Due to concerns about worker welfare, state governments have introduced deeming legislation to ensure that such workers have protections under their industrial relations legislation. They consider that many of these workers are dependent contractors or disguised employees,
which we have just heard defined in an earlier quote from the Monash submission.

As a Queenslander, I take particular interest in what the Queensland government is doing in this area. In their submission to the House of Representatives *Making it work* inquiry, the Queensland government states:

The increasing move away from the conventional employee/employer relationship towards workers engaged under labour hire arrangements and under dependent contractor status, has effectively taken these workers outside of the industrial relations system and the benefits and protections associated with being defined as an employee under relevant industrial laws.

Under the Queensland legislation, persons or workers that this deeming applies to include outworkers, lessees of equipment or vehicles, drivers who wholly or partly own their vehicles and persons working as partners in a business or association.

Those state laws have been made for very good reasons. They were made with the welfare of workers in mind. They were made to prevent workers from being unduly exploited by these sorts of dependent contractor or sham contractor arrangements. But the bills that we are debating now seek to override these state laws that seek to uphold workers’ rights and uphold some security. As a result of these laws, genuine employees will be pushed out of the employer-employee relationship and into sham independent contracting arrangements. That means a huge shift in responsibility from employer to individual. The responsibility for statutory items such as superannuation, PAYE taxation arrangements and workers compensation cover moves from the employer to the individual.

We are seeing more and more evidence of sham contracting arrangements with workers who, under traditional definitions of ‘employee’ and ‘independent contractor’, are in every way correctly considered to be employees. Ads in the papers for cleaning jobs are calling for applicants to have their own ABNs. We are seeing some extreme examples of people being forced into acting as independent contractors when traditionally they would have been considered employees.

State legislation has been in place to protect those people, but these bills are out to end those arrangements. In these situations, the employee—or former employee—also has reduced bargaining power because of reduced access to union assistance or collective bargaining to protect wages and conditions. We know what this is all about. It is about reducing people’s wages and conditions. That is what this government is always about. Work Choices was the end of a long campaign by the Prime Minister to attack unions, to take away protections for workers and to reduce wages and conditions, but he was not content with that and we are now seeing this additional piece of legislation, which will achieve the same thing for certain groups of workers.

This attack on people’s security and protections is happening at the same time that they are struggling under the weight of many additional costs for their families. Petrol prices are at record highs, interest rates are on the way up—we have had seven successive interest rate rises in the last few years under this government—and the costs of health care and child care are rising. The amount of money people need to meet their obligations is making life harder all the time. People must be reeling out there, not just from the added pressures coming with the increases in the cost of living but because this is happening under a government that promised them it was not going to be this way. This is the Prime Minister who promised that, during his term, people would be relaxed and comfortable and that no worker would be worse off and who promised, at the last election, that interest rates were not going to rise. People must be feeling incredibly
betrayed by this government, and that is certain-ly the message that I am getting as I get around my electorate. The facade that John Howard has had up for many years, particu-larly since the last election, is crumbling. The world that people thought they were living in under this government is not slip- ping away; the government is basically smashing it to pieces, and people are feeling very insecure.

I want to take a couple of minutes during this debate to talk about a particular trend that is occurring in the mining communities in my electorate. It is very much of a piece with what we are talking about where, in the new workplace that this government wants to create and encourage and is presiding over, responsibility is shifting more and more away from employers and onto individuals. In the mining communities in my electorate, the mining companies, when coming in, investing in mines and setting up operations, traditionally provided accommodation. They supported the towns and communities, because they were quite remote or rural areas—they were often created on what were originally cattle properties—and people moved from their homes to work in the communities. The mining companies accepted the responsibility of creating homes for people, creating communities, providing services and making sure that there were schools, medical facilities and housing for the communities and for the miners who worked there.

Once again we are seeing an incredible boom in the coalmining sector in Central Queensland, but this time it is completely different. If you want to work out there now, you are on your own. If you go out there and work a 12-hour shift for the company, the company could not care less about what happens to you after that—whether you live in your car, as some people are doing, or whether you sleep in a donga for 12 hours and then another person comes in off their shift to sleep for 12 hours while you are working.

I wanted to bring to the debate that this is where the encouragement of employers to abrogate their responsibility for employees takes us, and it is what we are seeing in Central Queensland, particularly in the mining towns. Where once the companies took responsibility for their workers’ lives outside of work, they now no longer accept that, and we are seeing some pretty dreadful social conditions in the towns as a result. It is about time the Prime Minister took up my invita-tion—I wrote to him a few weeks ago—to come to Central Queensland and see it for himself. (Time expired)

Ms ANNETTE ELLIS (Canberra) (8.36 pm)—I am pleased to have the opportunity this evening to speak on the Independent Contractors Bill 2006 and related bill. To me the government’s intention to legislate in this area has been quite clear, and the disturbing fact is that, despite evidence and suggestion that they should be careful, the government’s determination is seen very clearly in this bill. We on the Labor side strongly support people who genuinely enter into their own businesses and genuinely set up their own subcontracting or contracting businesses, as has been done from time immemorial. But for the government to try to create the impres-sion that this legislation is going to make an acceptable difference for small business and contractors is, in my view, very misleading.

However, let us just look at a little bit of the history. On 9 December 2004, the Minister for Employment and Workplace Relations requested the Standing Committee on Employment, Workplace Relations and Workforce Participation to inquire into independent contracting and labour hire arrangements. That committee, of which I was a member, got under way and began its work. While that inquiry was under way, the minister then
also, for some strange reason, had an inquiry of his own. He began an inquiry after requesting this particular parliamentary committee to look into these issues. He then basically set up a parallel inquiry of his own to look into the same issues. That frustrated some of us on the committee, and we wondered why on earth that was being done. However, it was. Then we also saw, with the production of the legislation, a Senate Employment, Workplace Relations and Education Committee inquiry take place properly, as it should, into the bill.

A great deal of evidence was received through all of these processes, and in particular I want to refer to the report of the House standing committee, the committee of which I was a member, called Making it work. I want to speak about one specific aspect that we came to understand in our work. In doing this I want to put it in this context: we have seen Work Choices, the industrial relations changes brought in by this government; we have seen the Welfare to Work changes come in, and we are only now just beginning to see their impact; and now we have in front of us what I believe is the third part of this triple whammy, and that is the independent contracting arrangements. They all sit together in a very neat package for the government; we have seen the Welfare to Work changes come in, and we are only now just beginning to see their impact; and now we have in front of us what I believe is the third part of this triple whammy, and that is the independent contracting arrangements. They all sit together in a very neat package for the government, but from my point of view they all sit very uncomfortably, not only together but in our community, for all of the reasons that we on this side of the parliament, at least, understand.

I refer to that because I want to make particular points in relation to evidence that we took in that committee inquiry. In fact, the evidence came from my electorate. It appears on page 125 of the Making it work report. It is an example that I think the government and all of us need to be extremely aware of because with the changes that are going to occur under this Independent Contractors Bill I fear that this is not going to be an isolated case. In fact, I am sure it is not already. The example is where a Salvation Army officer came to my office. As I said, subsequently this became part of the inquiry. They were very concerned about a client of theirs, a young woman who had a mild intellectual disability. She was on the disability support pension and had been so for four years. She had worked part time as a cleaner since October of 2004. The client informed Centrelink each fortnight of her income, and they adjusted her disability support pension accordingly. I am quoting here from the paragraphs in the report:

The client is concerned about not paying tax, as the employer is not deducting the tax from her earnings. The cleaning agency informed the client that she was a sub-contractor as she had signed a contract stating the arrangement. The client did sign a contract; however she had no idea what it meant for her employment. She receives a weekly pay, and does not invoice the agency. She is offered work on a weekly basis; however, she does not have regular customers of her own—obviously. The report continues:

It was made clear to the Salvation Army that some cleaning agencies were moving to subcontractors rather than employees in the hope of avoiding responsibilities in regard to workers’ compensation, superannuation, pro-rata long service leave and holiday pay. The client was to apply for an ABN; however, it was stated she did not understand the implications this would have on her rights as a worker or her possible taxation debts.

I was really alarmed when I heard this story, and I made sure that the evidence of the Salvation Army in this case became known to the inquiring committee. Particularly when we look at the Welfare to Work changes and the changes in Work Choices, it is not at all outrageous for any of us to imagine that there is going to be many a case, with this particular legislation as the third part of this triumvirate, where we will see people in similar situations to this young woman, who
genuinely believed that she was an employee. She genuinely believed that she was doing the right thing, and she realised she was not only when the authorities started to be aware that there were some obligations that she was not meeting. Thank heavens she walked through the door of the Salvation Army and that that particular agency—or a similar agency in any other case—was able to argue her particular position.

But the point is that, yes, she did sign the agreement; she had no idea what the implications of it were. It was quite apparent that in the arrangement between her and who she thought her employer was, they did not make it quite clear either. It was to their financial advantage to do what they did, and the outcome is there for us to see in that report. So I have a range of concerns, but I think that outlines one of them very distinctly. As I said, we must see the Independent Contractors Bill as not only an isolated bill but also part of this whole move that government is making in relation to employment arrangements in this country.

I also refer to the Labor senators’ minority report, which was done as part of the Senate inquiry. The senators say:

The basic policy aim of the Independent Contractors Bill is to turn as many employees as possible into contractors. In the Government’s view, and more particularly in the view of employer organisations close to the Government, industrial relations are greatly simplified by arrangements which put employees onto either Australian Workplace Agreements, or turn them into contractors. Work Choices is intended to encourage the first of these trends, and the Independent Contractors Bill is intended to encourage the latter development.

Under this legislation, genuine employees are going to find themselves, in many cases, moved into what we call sham independent contracting arrangements, reducing or losing their entitlements, their conditions and their protections—protections, I might add, they now need more than ever they have before. These workers will find themselves having to carry the costs of superannuation, workers compensation and so on. Those workers most affected will include drivers, and I commend the Transport Workers Union for its submission to the Senate committee inquiry. The legislation will also dramatically affect cleaners, electricians and clothing outworkers.

In relation to clothing outworkers, the Senate report unanimously recommended that part 4 of the bill be omitted. This part 4 relates to clothing workers, and I refer to a briefing note in relation to part 4 of the bill that I have. This briefing note says:

Part 4 creates a new category of worker: contract outworker. This definition ignores the fact that outworkers have previously been afforded employee-like protections and status due to their particular vulnerabilities. It also has the potential to create confusion about the appropriate classification for outworkers, and gives unscrupulous employers the opportunity to reclassify their workers as contract outworkers to come within the terms of the bill and avoid other outworker entitlements.

Under part 4, the bill, under the guise of protecting outworkers, has the effect that contract outworkers are entitled to a default minimum rate of pay. Where a minimum rate of pay is not specified in state law, this particular bill provides that the federal minimum wage of $12.75 is the default minimum rate. However, in legislating a minimum rate of pay, the government has excluded the broader protections provided to outworkers under state laws or in federal awards. These protections include things like annual leave, public holidays, ordinary hours of work and overtime, superannuation, workers compensation and redundancy pay.

To me, it is extremely significant that senators across the political board recognised the effect of part 4 and recommended its omission.
These laws attack the protections and entitlements of those workers who happen to be in inferior bargaining positions. The cleaning profession is one, but we have named many. Should you be a worker or a small business seeking a remedy for any unfair or sham contract arrangement, you will have to resort to costly court processes. I make the observation that most people who would find themselves that way affected through this legislation probably cannot afford the process. It is unrealistic to most of them to imagine going down that path in the first place.

We on this side of the House are opposed to this bill. I personally see it as very bad legislation; I cannot see any public policy gain by it. Sadly and realistically, however, despite all of our protests and the protests of others, this bill will proceed. On that basis, I strongly support the amendment moved by the member for Perth, and I would like to conclude by reflecting. It is very easy for all of us in this place to get a bit carried away with self-importance sometimes, and it is all very easy in this place for any one of us to get a bit carried away by our base philosophical beliefs. But I firmly believe that it is the role of government in this country of ours to come up with legislation that is good for everybody and that considers the rights and the roles of everyone in our society.

These words are very easy for me to say here, but I believe in them very passionately. I do not agree in following a pure, blind, philosophical direction just because it is what you want to do. There might be a whole heap of other people who do not agree with you, but people fall into the trap of being so convinced that what they are doing is absolutely correct because it follows their philosophical basis that they do not see any other view. This legislation falls straight into that category, along with the Work Choices and the Welfare to Work legislation. When we see these three pieces of legislation reflecting on each other, I really worry for the genuine role that people can play in our workforce in a fair way.

There is a lot of debate about Australian values. One of the greatest values we have here is a fair go, and I cannot see that a fair go is reflected in this legislation. I think about that young woman with a mild intellectual disability who thought she was doing the right thing by working as a cleaner part time through the week, on a regular basis, for an employer while being supported by the disability support pension, only to be led into this whole deception. The real question is: how many more people in her vulnerable position are going to be affected, let alone owner-drivers and a whole list of other people? At the end of the day, yes, this legislation is going to go through. Will that stop me or others from objecting to it? No, because we also have a responsibility— that is, to stand up in this place and say why we think it is wrong and what we think should be done to fix it. And you never know, one day the government might just fix it.

Ms PLIBERSEK (Sydney) (8.50 pm)— As the previous speaker, the member for Canberra said, the Independent Contractors Bill 2006 and the Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006 are part of a set of legislation that also involves the Work Choices and the Welfare to Work legislation. It is part of the government’s extreme ideologically driven attack on the valuable protections that used to exist for workers in our industrial relations system. It is part of the race to the bottom for workers’ pay and conditions. It allows—indeed it encourages—independent contractors to compete by taking pay cuts and losing the protections that should be available to them when they are in an employee-employer relationship.
Labor support any person who wants to set up a small business or to be a genuine independent contractor. What we do not support is a system that pretends it is about flexibility but is actually about pay cuts and cuts to conditions of workers. This legislation comes at a time when the families of these workers are already under enormous financial pressure, particularly in the case of owner-drivers. Owner-drivers may well have taken out an enormous loan to have bought their truck in the first place. Across the board these workers are facing mortgage interest rate rises. They have borrowed more than ever before for their homes, so any little change in their financial situation puts enormous pressure on their ability to repay their ever-increasing mortgages. That is why we are seeing greater rates of mortgage defaults than ever before. We are also seeing increases in fuel prices on top of that. In this instance they are affecting owner-drivers more than other workers, but they are obviously affecting all of the workers who are covered by this legislation.

So you have an ideological position from the government that is all about supporting employer choice and employer control over their workers and not at all about supporting the workers generally and, in this case, some of the most vulnerable workers in our community. The Prime Minister talked about work and family balance as a ‘barbecue stopper’ issue. The provisions in this legislation will mean that people are forced to work longer hours to make the same amount of money and that owner-drivers will be forced to drive for unsafe periods of time and, as many of them have felt they had to in the past, to take illegal stimulant drugs to stay on the road to meet their basic expenses. This legislation makes all of that so much worse. The idea that the Prime Minister is in any way interested in work-family balance or indeed in supporting families more generally is really given the lie not just by the Work Choices legislation and by Welfare to Work but also by this Independent Contractors Bill.

The previous speaker spoke of a constituent of hers, a young woman with a mild intellectual disability who was given a contract to sign and signed it. We do not know how many cases like this one there are in the community. If people who are facing this situation, such as cleaners or outworkers, were really good at reading contracts, perhaps they would be lawyers and not cleaners. A lot of people in the cleaning industry and in the outworker industry in particular have English as a second language and do not have a particularly high educational attainment. That is obviously not true of all of them, but there is a significant proportion for whom English is a second language. The idea that they will negotiate the details of contracts with unscrupulous employers and do okay out of it under this new legislation is absolutely fanciful.

The government is quite happy to talk about the sense of responsibility that people should feel and that they should and must discharge their responsibilities as Australian citizens. What about the responsibility that an employer has to a genuine employee? Is it not the case that someone who employs a worker should be responsible for basic things like paying their superannuation and ensuring that, if they have an accident in the workplace, they will be covered for that? This is one more way that costs that should rightly be borne by genuine employers for their genuine employees are to be shifted onto those employees or onto the general public. They are borne by individual employees if they have an accident and they go from being able to support a family to requiring the support of their family. The family picks up the caring bill and the public hospital system picks up the rehabilitation bill. We have a WorkCover system for a very good
reason: by each contributing a small amount to cover their employees, employers are able to minimise the costs to themselves, to the individual employees and to the Australian community. Why would we retreat from a system that insures us against the sorts of terrible workplace injuries that we see? The same goes for superannuation. Why would we want to retreat from a system that has a small to moderate contribution from employees and employers over time so that people have a decent retirement income to live on when the time comes?

I think there is pretty common agreement that the bill is likely to force people into sham independent contracting agreements; that their entitlements, their conditions and their protections will be reduced; and that the laws will tear away protections that people have taken for granted for some time. Basically, the government are saying: ‘Well, too bad. You’re on your own.’ They are saying it to workers generally with the Work Choices legislation but in this instance with this legislation they are saying it to some of Australia’s most vulnerable workers. If you look at outworkers in particular, there was unanimous bipartisan agreement on the committee that looked at this legislation that part 4 of the bill is not going to work. It is contrary to the intention in the bill’s explanatory memorandum and it will in fact undermine existing conditions and make things worse. It will effectively render outworker protections that exist under state laws largely ineffective. The Textile, Clothing and Footwear Union made this case very strongly, but it was not just the union. The Victorian government agreed, and obviously they were pretty successful in convincing a bipartisan group of parliamentarians. What is the point of having committees that inquire into bills if when you actually get bipartisan agreement—and I keep stressing: bipartisan agreement that one piece of the legislation is seriously flawed—the government persists in ignoring all sensible advice from all sources in order to continue on an ideological jihad against the protections currently afforded to ordinary Australian workers?

Owner-drivers are seriously affected by this legislation. These people have enormous debts to start with: the debts that they incur to buy their trucks to set up. There are significant protections in state legislation for the very reason that keeping owner-drivers safe is not just good for them and their families but vitally important for safety on our roads.

Debate interrupted.

ADJOURNMENT

The SPEAKER—Order! It being 9 pm, I propose the question:

That the House do now adjourn.

Minister for Foreign Affairs

Mr KELVIN THOMSON (Wills) (9.00 pm)—On the night of 23 July, two Lebanese Red Cross ambulances came under Israeli air attack near the village of Qana. The attack reportedly caused one man travelling in one of the ambulances to lose his leg, and his 12-year-old son was scarred by shrapnel wounds to the head. An attack on Red Cross ambulances is cause for dismay, even disgust, no matter how war-weary our world has become, and the attack was widely reported by the international media.

In a world where violence is a way of life and the innocent are victims every day, the caravan moved on—except here in Australia, where the Minister for Foreign Affairs gave a speech on the Gold Coast in the last week of August deciding to criticise journalists for poor reporting of the war in Lebanon and deciding to use this case as an example. He said:

After closer study of the images of the damage to the ambulance, it is beyond serious dispute that this episode has all the makings of a hoax.
The problem for the foreign affairs minister is not merely his pompous, self-righteous, fake indignation in telling journalists how they ought to report a war but that he was wrong—quite wrong. Both the Lebanese Red Cross and the International Committee of the Red Cross have confirmed the attack. In no other official discourse around the world has the attack been doubted.

Now, you would think this minister might have learned from his blunders of the past and would be careful to check his facts and engage his brain before putting his mouth into gear. This is the same minister, after all, who said after we invaded Iraq that we would be there for months, not years. He is in the same gullible category as US Defense Secretary Donald Rumsfeld and Deputy Secretary Paul Wolfowitz, who told American parents that their soldier sons and daughters would be welcomed by ‘liberated’ Iraqis with candy and flowers; instead, tragically, thousands have come home in coffins.

This is the same minister who in October 2004 sent our ambassador off to the US Senate to look US senators in the eye and tell them the Australian Wheat Board had not been paying kickbacks to Saddam Hussein. You would think he would have learned by now to check his facts before telling the media they should check theirs.

So where did Minister Downer get his information? Well the ‘evidence’ be produced on the Gold Coast to the Pacific Area Newspaper Publishers Association was based on images and opinion drawn from a website called zombietime.com. The person who operates this website is anonymous. He or she claims they live in San Francisco. He or she does a line in right-wing propaganda and ‘shocking images’. But our foreign minister prefers to believe this internet identity, rather than have his own department check matters out with the International Committee of the Red Cross. This is the minister who told the Cole commission into the AWB scandal that he does not have time to read diplomatic cables. But it turns out he has time to log on to anonymous right-wing US websites.

I went onto the internet and looked up the Compact Oxford English Dictionary definition of ‘zombie’. Its first meaning is ‘a corpse supposedly revived by witchcraft, especially in certain African and Caribbean religions’. Zombie’s other meaning is ‘a lifeless, apathetic, or completely unresponsive person’. That is Minister Downer all right: apathetic about the catastrophe that is Iraq, apathetic about the scandal that is AWB and unresponsive to the basic standards expected of a minister.

The Irish band the Cranberries did a brilliant anti-war song about the war in Ireland: like the Israel-Palestinian conflict, another senseless, decades-long, religious based conflict. They called it ‘Zombie’, and it goes:

With their tanks and their bombs,
And their bombs and their guns.
In your head, in your head, they are crying ... ...

What’s in your head,
In your head,
Zombie, zombie, zombie?

Minister Downer would be better served listening to the Cranberries than getting his kicks searching the net for websites run by anonymous right-wing crackpots. Float on his portfolio in a zombie-like trance, he is a minister who hears only what he wants to hear, sees only what he wants to see and believes only what he wants to believe. Australia’s national security deserves better.

First Contact Aboriginal Corporation for Youth

Mr VASTA (Bonner) (9.04 pm)—First Contact Aboriginal Corporation for Youth is a not-for-profit organisation in Bonner that
Corporation chairperson Robbie Williams is an outstanding community leader and a proactive advocate for his people. Mr Williams shares a personal connection to the Bonner electorate through his family’s language group: the Yugumbah people. Furthermore, he is a man inspired by the late senator Neville Bonner, who was both a strong and highly respected Aboriginal elder and leader. I take this opportunity to commend Mr Williams and the team of fine men and women who have led the corporation forward so successfully.

I have also had the great pleasure of working closely with Mr Williams over the past 12 months on a local project that would see the establishment of an Echidna Magic Kiosk and community facility on the summit of Mount Gravatt. Mount Gravatt has for years remained a special recreational ground and lookout for the southside community of Bonner. From families and couples to clubs and community groups, the mountain and its view are enjoyed by a wide variety of people and, moreover, it is sacred ground for the local Indigenous community.

However, unlike Mount Cootha in the western suburbs of Brisbane, Mount Gravatt Mountain lacks a community cafe and public facilities which could potentially draw activity and life to the mountain. The Echidna Magic Kiosk project is a plan that would bring a unique community facility to life on the mountain. While managed by Indigenous locals, the facility would be accessible for use by the whole community.

This is a project that has been embraced by southside residents and identified as a worthwhile development that would benefit the local area. For the past 10 years, Mr Williams has committed himself to this vision and project for Mount Gravatt Mountain, and I thank him for his determination and enthusiasm.

Community volunteers have dedicated hundreds of hours to the project in the past 12 months. As local support has increased, significant developments have been made which are bringing this project closer and closer to becoming a reality. During the first round of this government’s Community Water Grants program, I worked with Mr Williams on an application for funding that would see the Echidna Magic Kiosk incorporate water-wise strategies into the facility’s operation as well as develop native educational gardens. The First Contact Aboriginal Corporation submitted an outstanding application which resulted in a $50,000 grant for the water-wise program. Furthermore, Mr Williams has secured a 20-year community lease for the site and has gained financial assistance for the incorporation of an industrial kitchen and fittings.

This project has my full support, and I assure Mr Williams that I will continue to work with my state and council colleagues until this community facility is delivered for Mount Gravatt. I know that the local state member and minister, the Hon. Judy Spence, has also worked cooperatively with the First Contact Aboriginal Corporation to ensure that the state government supports this development. I thank Minister Spence for her commitment and proactive approach to this project.
The corporation is now seeking funds through the government’s Regional Partnerships program for construction of the kiosk facility. This evening, I wish to confirm my support for this application, as this is a community-focused project that will deliver positive outcomes for the southside region of Brisbane. Without this funding, the project cannot progress to its final stages and, indeed, it would be a great loss for the southside community.

The Echidna Magic Kiosk for Mount Gravatt Mountain is now well in the making and, with the support of a Regional Partnerships grant, this community facility could finally be brought to life. It is a project that brings the local Indigenous people and their land together with the southside community, and it is an opportunity that simply cannot be missed.

Broadband Services

Ms GEORGE (Throsby) (9.09 pm)—It is unacceptable that in the year 2006, many residents and businesses in the Throsby electorate are still unable to access high-speed ADSL broadband services. The Howard government has been so obsessed with forcing through the privatisation of Telstra, against the wishes of the vast majority of Australians, that it has completely neglected the telecommunications needs of our community.

I would like to put on the parliamentary record a few examples of the complaints that have come across my desk in recent times. The Harvey World Travel agency located in the Shellharbour City Centre business district have been plagued by the lack of ADSL connection since May 2005. The owner and his staff are attempting to run a heavily computer-dependent business using dial-up facilities. Access to ADSL broadband is central to the core productivity of the business. I understand that the agency will have their request met shortly and not before time. A wait of over a year is not acceptable.

The same frustration was expressed to me by the owner of a recently opened telecommunications business in the Albion Park Industrial Estate. Surely Telstra could have anticipated in their forward planning that high-speed broadband would be needed in an industrial estate. A constituent from Yellow Rock wrote recently in frustration with a simple message to the government. I quote from his email:

Despite indications from the Prime Minister that Telstra is providing improved services to the people in the ‘bush’, I find that I am less than four kilometres cable-end to cable-end from the new exchange, yet you cannot supply me with ADSL. Is it possible in this day and age, and contrary to what the Prime Minister has said, that Telstra ran a small paired cable up this road, with the intention of reinstalling multiplexed services all the way up the hill? This would preclude everyone in Yellow Rock from access to ADSL, as ADSL cannot cope with multiplexes, or RIMs. Are we in Yellow Rock victims of discrimination? This can only be seen as total arrogance for the plight of people in the bush.

Another constituent wrote to me saying that he had moved to a housing estate in the suburb of Horsley in January this year. The estate was built around 1999, but he cannot get an ADSL connection. He points out, ‘As a science teacher, connection to the internet is almost mandatory.’ Dial-up services are totally inadequate for the needs of his profession. He is using Telstra’s wireless broadband but at a much greater cost to the family than ADSL unlimited access. He argues that wireless broadband services should be provided at more competitive rates. He says: ‘It’s Telstra’s problem not the problem of those who have been given a technologically “second rate” telephone network.’ He is right.
Telstra’s recent decision to shelve its fibre network proposal is a major blow for consumers and our economy. Telstra management at the highest level is hiding behind its dispute with the regulator and using that as the reason for not expanding ADSL services, and this government continues to pay lip-service to the problems people are experiencing. The end result is that many people and businesses in my electorate of Throsby have been left on an IT goat track instead of being part of an information superhighway.

Australia is falling behind other developed nations on both internet speed and the take-up rate of broadband. Yet all the economic arguments show that the leap from dial-up to fast-speed broadband can have a huge economic impact. As the local MP in Throsby, I have pursued constituents’ concerns with Telstra local staff, but their hands are tied. I have again written to the minister asking when a community so close to the major city of Wollongong can get redress and access to high-speed broadband services.

I must say that a future Labor government will deliver a super-fast broadband network through a partnership with the telecommunications sector. So I guess that a lot of my constituents have to live in hope, because of the failure of this government to address their needs. The fibre-to-the-node network proposal by the Labor Party will be a huge nation-building project. It will boost our economy and provide new services to Australian businesses and families—the very type of service so lacking in many parts of my electorate.

**Australian Values**

**Mrs MIRABELLA** (Indi) (9.14 pm)—Yesterday, the Leader of the Opposition called for a values statement to be made by would-be Australian citizens and would-be visitors to Australia. The practicalities of imposing such a values statement on would-be visitors would be a bit bizarre. But, as the Prime Minister has admitted, there is perhaps some merit in looking at some commitment to Australian values. The Prime Minister said in a very recent interview:

In relation to people who are going to live in Australia, the idea of getting them to fully embrace Australian values and fully commit to Australian values, I think you have heard me say that time and time again, and any way that can be embraced, that will reinforce that, I’m for.

It is perhaps a concept worth considering: that those who want a visa to be permanent residents in Australia and who want that status of permanent residency—perhaps in preparation for Australian citizenship—should be asked to embrace Australian values, such as support and respect for democracy, support and respect for women and the equal treatment of women, and support and respect for our laws, for our police and for our armed forces. That is something basic that most Australians would agree with.

On this very point, this government has done much already to reinforce Australian values to visitors coming to Australia and has significant programs, both language programs and cultural programs, to assist those who are settling permanently in Australia. I take this opportunity to urge Andrew Robb, Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, to hurry up the discussion of a formal citizenship test for migrants seeking Australian citizenship as well.

But there is one disturbing aspect about the suggestion that the Leader of the Opposition has made, and that is that it shocked and split his own party. Why did such a reasonable suggestion—particularly in these times when the Australian public is asking for some sort of unifying direction and some sort of commitment from those who believe that Australia is attractive to enough to come and live here—split his caucus? I will tell you
why: it is because there are loopy people in the Labor caucus who do not even want the word ‘mainstream’ uttered within that caucus room. They are petrified of and paranoid about standing up and promoting Australian values, standing up and promoting democracy, standing up and promoting our rule of law and standing up and promoting those very pillars and institutions that have made this nation one of the most economically prosperous and politically free civil societies on earth. You have to wonder what sort of people make up the Labor Party caucus.

The Leader of the Opposition is not even allowed to speak a few words of sense. The Australian people expect an alternative Prime Minister to be more than a limp leader whose own party does not respect him enough to allow for open debate on this very important issue, which goes to the very core of our national identity and the future of this nation. Some older members in this House may like to play politics and try to appease all sorts of interest groups on this issue, but as one of the younger members of this House I want to live long enough to see a united Australia, not one that is divided. We have an obligation to facilitate that.

The Australian people still do not have any idea what the Leader of the Opposition, a fellow who has been a member of parliament for more than a quarter of a century, stands for. He is a bloke who recently told a Liberal member of parliament to ‘take your tablets’. He is a bloke who gave us the failed dud subs when he was Minister for Defence, who so unkindly left the Howard government with an $8 billion budget black hole when he was finance minister, who gave us 11 per cent unemployment when he was employment minister and who stupidly gave us the costly and ridiculous cable duplication when he was communications minister. And he is now telling us that he thinks visitors and prospective citizens alike should face a values test to get permanent residency or citizenship. (Time expired)

Queensland State Election

Mr RIPOLL (Oxley) (9.19 pm)—It is not often that members on the Labor side of the House rise to endorse statements made by those on the other side of the House, especially when those statements concern election results. Yesterday, the member for Moreton and Minister for Vocational and Technical Education told ABC radio listeners that the people of Queensland ‘got it right’ when they returned the Beattie Labor government last Saturday. That is not all that the minister had to say and it is not the only thing that he said that I want to endorse tonight. The minister told the ABC AM program:

Well, I mean the National Party should be really upset about their result. All they’ve done is win back a seat. They lost a half a dozen years ago, which they held for 60 years before that.

So it’s not much of a result for them and I think that one of the messages the National Party have got to get out of this election is to get the hell out of south-east Queensland.

I have to say that I almost choked when I was listening to the minister’s comments, so I can only imagine how his National Party colleagues must have felt.

Minister Hardgrave hails from Queensland, where just a few weeks ago the Liberal and National parties were announcing a merger plan, which was scuttled by the Prime Minister. What a great idea that was by the PM. The minister was not finished there, though. He was not just interested in the past; he was interested in the future. He had a clear message for the National Party, and the National Party should have a listen to what he said. This is what he told AM:

The reality is there will never be a National Party Premier in Queensland ever again, and the result over the weekend showed that.
Ouch! That has to hurt, the painful truth. For the record, I do not see any of the Liberals disagreeing, by the way. Finally, the minister urged his National Party colleagues to grow up and vacate the south-east corner of Queensland for the Liberals. You would think that perhaps somebody in the Labor Party said this, but, no, it was a Liberal minister.

Somewhat surprisingly, though, the National Party has not received the minister’s message very warmly. I say ‘surprisingly’ because the demise of the once great National Party is a matter of fact, not supposition. It is not just the numbers that spell out that reality; it is the quality of the people that they send to the parliament these days. Does anyone in Australia think that the Minister for Agriculture, Fisheries and Forestry is actually up to the job? Is anyone listening to him? Does anyone care? It could hardly be said that the National Party stands for anything anymore—or, for that matter, anyone anymore.

The party sold out its own people, its own constituency, on the sale of Telstra. It sold out its own people, its own constituency, on the matter of sugar in the free trade agreement with the United States. And now it has sold out its own constituency on the mandatory code of conduct for the horticulture industry. What is there left for the National Party? This was confirmed by Senator Ron Boswell—a bloke who used to take a bit of pride in the party—when he told AM that the National Party had stood by the Liberal Party ‘through thick and thin’—no matter what.

If the party instead had stood with the people who voted for them, the people who they are supposed to represent, rather than just sticking to the Liberal Party through thick and thin, then they would not be facing the oblivion they are facing today. It is only a matter of time. All that the few remaining National Party members in this place can do is deny reality. The member for Dawson has meekly responded to the minister’s comments by saying ‘cheap pot shots from federal Liberals are really unhelpful’. I am sure that is right.

In a delicious irony, though, the member for Dawson lost her place in the ministry because her National Party colleague, the Minister for Agriculture, Fisheries and Forestry’s brother in the Senate, walked out of the party room. When he was walking out of the party room door into the arms of the Liberals, Senator Julian McGauran said that there is ‘no longer any real distinguishing policy or philosophical difference between The Nationals and the Liberal Party at the federal level’. Oh, dear! What will they admit to next? There has been some recent speculation that the minister for agriculture would join his brother in the Liberal Party room—rats deserting a sinking ship or is it just the perks that keep them going? You decide.

As far as Australia’s farmers are concerned, there is already a Liberal in the job. The minister for agriculture acts like a Liberal, he talks like a Liberal and he votes like a Liberal. He even ushered the Telstra sale legislation through like a Liberal! Not wanting to make any jokes of a poultry nature, if it walks like a duck and it squawks like a duck—everyone knows how the rest of it goes. The National Party of Australia is a spent political force, not just because the member for Moreton says so but because its own people say so. (Time expired)

Hobart International Airport

Mr Michael Ferguson (Bass) (9.24 pm)—I rise to draw to the attention of the House a retail planning controversy that is building momentum in Tasmania—and so it should because one false move could spell disaster for the Tasmanian retail sector. I re-
fer to the proposal by Hobart International Airport Pty Ltd. At an astonishing 77,000 square metres in floor space, it would include the biggest Discount Factory Outlet in Australia as well as furniture stores and a hardware centre. The scale of this project is a moot point. It is of such a magnitude that business operators from all around the state are very worried about the distortion to the marketplace that would occur. As a consequence, in my view, the community is very uncomfortable with the planning process as we now understand it.

Let me make it clear that, as a parliamentary representative, unlike some others, I strongly believe that I should generally adopt a pro-development position. However, in this case I find that in order to represent my constituents, especially the small business community in northern Tasmania, I must stand up to this situation, which is absolutely unacceptable. I do this on the grounds that I am concerned that this developer has an unfair advantage because it is being allowed to bypass local government and state planning laws, even though it is a non-aviation development. Tasmanian regional and business representatives want the proposal to be assessed with state planning guidelines, which are able to take into account retail hierarchy and indirect effects on regional businesses—the same grounds which struck out the application for a big box estate on private land near Launceston airport.

Today I want to call on both the state and federal governments to give some ground on this issue and join me in standing up for commonsense and fairness. Let us be absolutely clear here: the land in question is owned by the Commonwealth. The land and the infrastructure are on a 99-year lease to Hobart International Airport Pty Ltd, which in turn is 100 per cent owned by the Tasmanian government. The Commonwealth retains responsibilities for land use at all airports covered by the Airports Act 1996. Most people accept the need for such powers in the interests of protecting the long-term strategic interests of our airport network.

While the investment is coming from Austexx, the legal proponent is in fact the state government owned body. The Lennon government is acting in bad faith by on the one hand politically demanding that the Commonwealth hand over planning powers for all Commonwealth land and on the other hand sneakily acting as the land developer and refusing to subject itself to the Tasmanian planning system—which I suggest it has the power to do. In response to expressed concern, we have been fed a diet of rhetoric and silence from the Tasmanian government, but I say that now is the time to act.

I join with the Property Council of Australia and the Launceston Chamber of Commerce in calling for the immediate release of the social and economic impact statement of this proposal—which is being protected by Hobart International Airport Pty Ltd. The existence of this report is well known, and perhaps contains evidence of the negative impact the proposal would have on the broader economy. Until that report is released, every Tasmanian should feel deeply affronted that the draft major development plan summarises the impact statement in a dismissive 161 words.

State government ministers announced this development in November last year, proof positive that this project is state government sponsored. With taking the credit also comes taking responsibility. So today I call on the Lennon government to do one of two things. One is to ensure that it takes responsibility for its own airport corporation and guarantee that any developments it proposes will be consistent with the Tasmanian planning system prior to submitting any plans to the federal transport minister. The
Tasmanian government could do this unilaterally as the owner of the business proposing this monster development. The alternative is to direct the airport corporation to withdraw the proposal, submit it to its Resource Planning and Development Commission for consideration as an ordinary development or as a project of state significance and then resubmit it to the federal minister if the proposal stacks up.

In case the Tasmanian government blusters through this chaos and ignores the community, I call on my own federal government to: firstly, regard with scepticism the social bona fides of the major development plan when it does finally come from the Lennon government owned Hobart International Airport, especially with regard to the inordinate scale of the proposed development; and, secondly, be prepared to genuinely consider the public submissions that become part of this process while demanding access to the economic impact statement which I know to already be in the hands of the developer. In closing, I intend to broadcast to the Tasmanian business community that I will seek leave to table in federal parliament any submissions that are being made to Hobart International Airport. Ordinarily these submissions only need to be summarised for the benefit of the federal minister; however, I would be pleased to collect and inject the substance of any submissions into the federal sphere subject to reasonable content.

**Australian Values**

Mr PRICE (Chifley) (9.29 pm)—I want to reiterate how much I support the Leader of the Opposition in espousing Australian values, particularly the requirement for some reference to them on visas. It is true we had a lengthy discussion in the caucus, but that is what we do. We have supported our leader. He is out there standing up for Australian values and actually proposing to do something about it rather than the talkfest we get from the Howard government. Far from being divided, the leader has shown his strength and vision on this matter, and I totally support him.

The SPEAKER—Order! It being 9.30 pm, the debate is interrupted.

House adjourned at 9.30 pm

NOTICES

The following notices were given:

Mr Abbott to present a bill for an act to amend legislation relating to medical indemnity, and for related purposes. (Medical Indemnity Legislation Amendment Bill 2006)

Mr Pearce to present a bill for an act to transfer pre-transfer contracts, associated documents and certain related rights and liabilities of the Commonwealth, and for related purposes. (Housing Loans Insurance Corporation (Transfer of Pre-transfer Contracts) Bill 2006)

Mr Pearce to present a bill for an act to repeal the Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Act 1996, and for related purposes. (Housing Loans Insurance Corporation (Transfer of Assets and Abolition) Repeal Bill 2006)

Ms Burke to move:

That the House:

(1) notes that:

(a) eating disorders—anorexia nervosa, bulimia nervosa, binge eating disorder and related disorders—are not illnesses of choice, but rather life-threatening mental disorders;

(b) anorexia is the third most prevalent chronic illness in adolescent girls after obesity and asthma and has one of the highest mortality rates of any psychiatric disorder;

(c) one in 20 Australian women has admitted to having suffered an eating disorder; and
(2) expresses serious concern about recent reports that eating disorders are on the increase, especially among school-aged children;

(3) condemns the lack of government funding for the prevention and treatment of eating disorders; and

(4) urges the Government to:
   (a) convene a national summit on body image to develop a national code of conduct to ensure the media, fashion industry and advertisers portray a healthy and diverse range of men and women; and
   (b) become a signatory to the Worldwide Charter for Action on Eating Disorders, which calls on those responsible for policy to educate and inform the community with programs that:
      (i) de-stigmatise eating disorders and raise awareness of the causes of eating disorders;
      (ii) increase public awareness of the signs and symptoms of eating disorders;
      (iii) make available comprehensive information about eating disorder services and resources;
      (iv) connect with the media to provide accurate information on eating disorders and to help shift the culture’s perspective on body image issues and weight and food issues;
      (v) develop and implement effective prevention programs targeting schools and universities;
      (vi) educate and train health care practitioners at all levels in the recognition and treatment of eating disorders to improve the quality of care;
      (vii) provide sufficient specialist services based on regional need;
      (viii) provide people with access to fully-funded, specialised treatment and care; and
      (ix) fund research into eating disorders.

Ms Burke to move:

That the House:

(1) acknowledges that Australians receive over one billion telemarketing calls each year;

(2) notes the massive frustration that unwanted telemarketing calls cause the people of Australia;

(3) welcomes the Government’s long-overdue decision to finally adopt Labor’s policy for a national Do Not Call Register;

(4) expresses its concern over the Government’s delay in setting up the national Do Not Call Register;

(5) notes that, although the Minister promised the Do Not Call Register would be established in early 2007, there are fears that it will not be up-and-running until at least late 2007, because the Government has not yet called for tenders for a service provider; and

(6) urges the Government to stop delaying the implementation of the national Do Not Call Register and expedite its establishment.
Ms Roxon asked the Minister representing the Minister for Communications, Information Technology and the Arts, in writing, on 8 December 2005:

1. For 2004-2005, what sum did the Minister’s department and portfolio agencies pay to (a) Clayton Utz, (b) Blakes Dawson Waldron, (c) Philips Fox, (d) Sparke Helmore, (e) Freehills, (f) Minter Ellison, (g) Corrs Chambers Westgarth, (h) Mallesons Stephens Jacques, (i) Deacons, and (j) Craddock Murray Neumann Solicitors for legal services.

2. Which partners or principals of (a) Clayton Utz, (b) Blakes Dawson Waldron, (c) Philips Fox, (d) Sparke Helmore, (e) Freehills, (f) Minter Ellison, (g) Corrs Chambers Westgarth, (h) Mallesons Stephens Jacques, (i) Deacons, and (j) Craddock Murray Neumann Solicitors were responsible for undertaking or supervising legal services supplied by the firm to the department or agency in 2004-2005.

3. For each partner or principal listed in response to part (3), what was the total amount billed to the department or agency for services undertaken or supervised by that partner or principal in 2004-2005.

4. What are the details of the legal services provided to the department or portfolio agencies by (a) Clayton Utz, (b) Blakes Dawson Waldron, (c) Philips Fox, (d) Sparke Helmore, (e) Freehills, (f) Minter Ellison, (g) Corrs Chambers Westgarth, (h) Mallesons Stephens Jacques, (i) Deacons, and (j) Craddock Murray Neumann Solicitors in 2004-2005.

Mr McGauran—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member’s question:

1. For 2004-2005, the sums paid to each law firm listed in the question by each agency within my portfolio, including the Department of Communications, Information Technology and the Arts, were as follows:

   **Note:** All figures are GST inclusive

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<tr>
<td><strong>National Library of Australia</strong></td>
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</tr>
<tr>
<td>(a) Clayton Utz</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>(b) Blakes Dawson Waldron</td>
<td>$219,004.50</td>
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</tr>
<tr>
<td>(c) Philips Fox</td>
<td>$11,003.30</td>
<td></td>
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</tbody>
</table>
No payment was made by the following portfolio agencies to the firms listed in the question in 2004-05:

- Bundanon Trust
- Film Australia Ltd
- Australia Business Arts Foundation (AbaF)
- NetAlert Ltd

(2) The partners or principals responsible for undertaking or supervising legal services provided to the agencies within the Minister’s portfolio in 2004-2005 by the law firms listed in the question were as follows:

The Department of Communications, Information Technology and the Arts does not attempt to record the status of all lawyers in a law firm who perform work for the Department. Any attempt to compile this information from material supplied in invoices would be time consuming and probably would not give an accurate result.
<table>
<thead>
<tr>
<th>Australia Council for the Arts</th>
<th>Firm</th>
<th>Partners/Principals</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Clayton Utz</td>
<td>N/A (not applicable)</td>
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</tr>
<tr>
<td>(b) Blakes Dawson Waldron</td>
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</tr>
<tr>
<td>(c) Phillips Fox</td>
<td>Dennis Pearce, Special Counsel</td>
<td></td>
</tr>
<tr>
<td>(d) Sparke Helmore</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(e) Freehills</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(f) Minter Ellison</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(g) Corrs Chambers Westgarth</td>
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<td></td>
</tr>
<tr>
<td>(h) Mallesons Stephens Jaques</td>
<td>Robert Milliner</td>
<td></td>
</tr>
<tr>
<td>(i) Deacons</td>
<td>N/A</td>
<td></td>
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<tr>
<td>(j) Craddock Murray Neumann</td>
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<th>Australia Post</th>
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<tr>
<td>(a) Clayton Utz</td>
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<tr>
<td>(b) Blakes Dawson Waldron</td>
<td>Logan Armstrong &amp; Ayman Guirgus</td>
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<tr>
<td>(c) Phillips Fox</td>
<td>N/A</td>
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<tr>
<td>(d) Sparke Helmore</td>
<td>Michael Snell, John Wallace &amp; Paul Mentor</td>
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</tr>
<tr>
<td>(e) Freehills</td>
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<tr>
<td>(f) Minter Ellison</td>
<td>Michael Tehan</td>
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<tr>
<td>(g) Corrs Chambers Westgarth</td>
<td>Phillip Catania</td>
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<tr>
<td>(h) Mallesons Stephens Jaques</td>
<td>Ashley Poke &amp; James Fahey</td>
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</tr>
<tr>
<td>(i) Deacons</td>
<td>Stephen Giles</td>
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</tr>
<tr>
<td>(j) Craddock Murray Neumann</td>
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<tr>
<th>Australian Broadcasting Corporation</th>
<th>Firm</th>
<th>Partners/Principals</th>
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<tbody>
<tr>
<td>(a) Clayton Utz</td>
<td>Mark Spain, Peter Keel</td>
<td></td>
</tr>
<tr>
<td>(b) Blakes Dawson Waldron</td>
<td>Anthony Willinge</td>
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<td>(c) Phillips Fox</td>
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<tr>
<td>(d) Sparke Helmore</td>
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<td>(e) Freehills</td>
<td>Leanne Norman</td>
<td></td>
</tr>
<tr>
<td>(f) Minter Ellison</td>
<td>Peter Bartlett</td>
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<td>(g) Corrs Chambers Westgarth</td>
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<td>(h) Mallesons Stephens Jaques</td>
<td>Ian Angus</td>
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<td>(a) Clayton Utz</td>
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<td>(c) Phillips Fox</td>
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<tr>
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<tr>
<td>(f) Minter Ellison</td>
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<td>(h) Australian Film Commission</td>
<td>Mallesons Stephens Jaques</td>
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<tr>
<td>(i)</td>
<td>Deacons</td>
<td>N/A</td>
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<tr>
<td>(j)</td>
<td>Craddock Murray Neumann</td>
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<thead>
<tr>
<th>Firm</th>
<th>Partners/Principals</th>
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<tr>
<td>(b) Blakes Dawson Waldron</td>
<td>N/A</td>
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<tr>
<td>(c) Philips Fox</td>
<td>Campbell Paine, Caroline H Atkins</td>
</tr>
<tr>
<td>(d) Sparke Helmore</td>
<td>N/A</td>
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<tr>
<td>(e) Freehills</td>
<td>N/A</td>
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<tr>
<td>(f) Minter Ellison</td>
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<tr>
<td>(g) Corrs Chambers Westgarth</td>
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<tr>
<td>(h) Mallesons Stephens Jaques</td>
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<tr>
<td>(i) Deacons</td>
<td>Lisa White (Solicitor)</td>
</tr>
<tr>
<td>(j) Craddock Murray Neumann</td>
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<tr>
<th>Australian Film, Television and Radio School</th>
<th>Firm</th>
<th>Partners/Principals</th>
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<tr>
<td>(a) Clayton Utz</td>
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<tr>
<td>(b) Blakes Dawson Waldron</td>
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<tr>
<td>(c) Philips Fox</td>
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<td></td>
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<tr>
<td>(d) Sparke Helmore</td>
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<td>(e) Freehills</td>
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<tr>
<td>(f) Minter Ellison</td>
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<td></td>
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<tr>
<td>(g) Corrs Chambers Westgarth</td>
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<tr>
<td>(h) Mallesons Stephens Jaques</td>
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<tr>
<td>(i) Deacons</td>
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<td>(j) Craddock Murray Neumann</td>
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<table>
<thead>
<tr>
<th>Australian Sports Anti-Doping Authority (Australian Sports Drug Agency)</th>
<th>Firm</th>
<th>Partners/Principals</th>
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<tbody>
<tr>
<td>(a) Clayton Utz</td>
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<tr>
<td>(b) Blakes Dawson Waldron</td>
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<tr>
<td>(c) Philips Fox</td>
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<td></td>
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<tr>
<td>(d) Sparke Helmore</td>
<td>N/A</td>
<td></td>
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<tr>
<td>(e) Freehills</td>
<td>N/A</td>
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</tr>
<tr>
<td>(f) Minter Ellison</td>
<td>Paul McGuinness</td>
<td></td>
</tr>
<tr>
<td>(g) Corrs Chambers Westgarth</td>
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<td>(h) Mallesons Stephens Jaques</td>
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<tr>
<td>(i) Deacons</td>
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<tr>
<td>(j) Craddock Murray Neumann</td>
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<table>
<thead>
<tr>
<th>National Gallery of Australia</th>
<th>Firm</th>
<th>Partners/Principals</th>
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<tbody>
<tr>
<td>(a) Clayton Utz</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(b) Blakes Dawson Waldron</td>
<td>N/A</td>
<td></td>
</tr>
<tr>
<td>(c) Philips Fox</td>
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QUESTIONS IN WRITING
(d) Sparke Helmore  N/A
(e) Freehills   N/A
(f) Minter Ellison  N/A
(g) Corrs Chambers Westgarth  N/A
(h) Mallesons Stephens Jaques  Adam Bartlett and Ian Johnson
(i) Deacons  N/A
(j) Craddock Murray Neumann  N/A

National Library of Australia
Firm                          Partners/Principals
(a) Clayton Utz             N/A
(b) Blakes Dawson Waldron  Paul Dawson; Shaun Gath (litigation)
(c) Philips Fox              Caroline Atkins
(d) Sparke Helmore           N/A
(e) Freehills                N/A
(f) Minter Ellison           N/A
(g) Corrs Chambers Westgarth N/A
(h) Mallesons Stephens Jaques N/A
(i) Deacons                  N/A
(j) Craddock Murray Neumann  N/A

The Australian National Maritime Museum is not able to devote the resources to construct this information as the details are not readily available and any end result may not be accurate.

The Australian Sports Commission is not able to devote resources to construct this information as the details are not readily available and any end result may not be accurate.

Film Finance Corporation (Australia) is not able to devote the resources to construct this information, as the details are not readily available on existing documentation.

The National Archives of Australia is not able to devote the resources to construct this information, as the details are not readily available on existing documentation.

The National Museum of Australia is not able to devote the resources to construct this information as the details are not readily available and any end result may not be accurate.

The Special Broadcasting Corporation is not able to devote resources to construct this information as the details are not readily available and any end result may not be accurate.

(3) For each partner or principal listed in response to part (2), the total amount billed to the Department or agency in 2004-2005 is as follows:

The Department of Communications, Information Technology and the Arts does not record payments in respect of individual partners in a law firm. Any attempt to compile this information from material supplied in invoices would be time consuming and probably would not give an accurate result.

<table>
<thead>
<tr>
<th>Partner or principal</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1. Dennis Pearce</td>
<td>$3,850.00</td>
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<tr>
<td>2. Robert Milliner</td>
<td>$430.00</td>
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<tr>
<td><strong>Australian Communications and Media Authority</strong></td>
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</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>Partner or principal</strong></td>
<td><strong>Amount</strong></td>
</tr>
<tr>
<td>1. David Davies</td>
<td>$4,261.60</td>
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<table>
<thead>
<tr>
<th><strong>Australian Film Commission</strong></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Partner or principal</strong></td>
<td><strong>Amount</strong></td>
</tr>
<tr>
<td>1. Campbell Paine</td>
<td>$495.00</td>
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<tr>
<td>2. Caroline H Atkins</td>
<td>$111.91</td>
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<tr>
<td>3. Lisa White (Solicitor)</td>
<td>$8,698.80</td>
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<table>
<thead>
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<th><strong>Australian Film, Television and Radio School</strong></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>Partner or principal</strong></td>
<td><strong>Amount</strong></td>
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<tr>
<td>1. George Lavines</td>
<td>$4,047.58</td>
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<th><strong>Australian Sports Anti-Doping Authority</strong></th>
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<td><strong>Partner or principal</strong></td>
<td><strong>Amount</strong></td>
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<tr>
<td>1. Paul McGuinness</td>
<td>$1,357.40</td>
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<th><strong>National Gallery of Australia</strong></th>
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<tbody>
<tr>
<td><strong>Partner or principal</strong></td>
<td><strong>Amount</strong></td>
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<td>2. Ian Johnson</td>
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<tbody>
<tr>
<td><strong>Partner or principal</strong></td>
<td><strong>Amount</strong></td>
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<td>1. Paul Dawson</td>
<td>$189,635.60</td>
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<td>2. Shaun Gath</td>
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<tr>
<td>3. Caroline Atkins</td>
<td>$11,003.30</td>
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Australia Post is not able to collate this information.
The Australian Broadcasting Corporation is not able to devote resources to construct this information as the details are not readily available and any end result may not be accurate.
The Australian National Maritime Museum is not able to devote the resources to construct this information as the details are not readily available and any end result may not be accurate.
The Australian Sports Commission is not able to devote resources to construct this information as the details are not readily available and any end result may not be accurate.
Film Finance Corporation (Australia) is not able to devote resources to construct this information, as the details are not readily available on existing documentation.
The National Archives is not able to devote the resources to construct this information, as the details are not readily available on existing documentation.
The National Museum of Australia is not able to devote the resources to construct this information as the details are not readily available and any end result may not be accurate.
The Special Broadcasting Corporation is not able to devote resources to construct this information as the details are not readily available and any end result may not be accurate.
Details of the legal services provided to the Department and its portfolio agencies in 2004-2005 are as follows:

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<tr>
<th>Firm</th>
<th>Legal services provided</th>
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<tbody>
<tr>
<td><strong>Department of Communications, Information Technology &amp; the Arts</strong></td>
<td></td>
</tr>
<tr>
<td>(a) Clayton Utz</td>
<td>N/A</td>
</tr>
<tr>
<td>(b) Blakes Dawson Waldron</td>
<td>Interpretation of service contract</td>
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<tr>
<td>(c) Philips Fox</td>
<td>Drafting and negotiation of agreements</td>
</tr>
<tr>
<td>(d) Sparke Helmore</td>
<td>Drafting agreements</td>
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<tr>
<td>(e) Freehills</td>
<td>N/A</td>
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<tr>
<td>(f) Minter Ellison</td>
<td>(1) Advice in relation to funding agreement</td>
</tr>
<tr>
<td></td>
<td>(2) Sports law advice</td>
</tr>
<tr>
<td>(g) Corrs Chambers Westgarth</td>
<td>Drafting and negotiation of agreements and related advice</td>
</tr>
<tr>
<td>(h) Mallesons Stephens Jaques</td>
<td>N/A</td>
</tr>
<tr>
<td>(i) Deacons</td>
<td>N/A</td>
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<tr>
<td>(j) Craddock Murray Neumann</td>
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<tr>
<td><strong>Australia Council for the Arts</strong></td>
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</tr>
<tr>
<td>(a) Clayton Utz</td>
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<tr>
<td>(b) Blakes Dawson Waldron</td>
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<tr>
<td>(c) Philips Fox</td>
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<td>(d) Sparke Helmore</td>
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<td>(e) Freehills</td>
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<td>(g) Corrs Chambers Westgarth</td>
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<tr>
<td>(h) Mallesons Stephens Jaques</td>
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<td>(i) Deacons</td>
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<td>(b) Blakes Dawson Waldron</td>
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<td>(c) Philips Fox</td>
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<tr>
<td>(d) Sparke Helmore</td>
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<td>(e) Freehills</td>
<td>Taxation advice</td>
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<td>(f) Minter Ellison</td>
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<td>(i) Deacons</td>
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<td><strong>Australian Broadcasting Corporation</strong></td>
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<tr>
<td>(a) Clayton Utz</td>
<td>Publication advice</td>
</tr>
<tr>
<td>(b) Blakes Dawson Waldron</td>
<td>Publication advice</td>
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</table>
(c) Philips Fox            N/A
(d) Sparke Helmore        N/A
(e) Freehills             Publication advice
(f) Minter Ellison        Publication advice
(g) Corrs Chambers Westgarth Publication advice
(h) Mallesons Stephens Jaques Publication advice
(i) Deacons               N/A
(j) Craddock Murray Neumann N/A

Australian Communications and Media Authority
Firm                     Legal services provided
(a) Clayton Utz          N/A
(b) Blakes Dawson Waldron N/A
(c) Philips Fox           N/A
(d) Sparke Helmore        Advice on employment law
(e) Freehills             N/A
(f) Minter Ellison        N/A
(g) Corrs Chambers Westgarth N/A
(h) Mallesons Stephens Jaques N/A
(i) Deacons               N/A
(j) Craddock Murray Neumann N/A

Australian Film Commission
Firm                     Legal services provided
(a) Clayton Utz          N/A
(b) Blakes Dawson Waldron N/A
(c) Philips Fox           Advice on property lease
                          Legal fees for trademark registration
(d) Sparke Helmore        N/A
(e) Freehills             N/A
(f) Minter Ellison        N/A
(g) Corrs Chambers Westgarth N/A
(h) Mallesons Stephens Jaques N/A
(i) Deacons               Drafting Services
(j) Craddock Murray Neumann N/A

Australian Film, Television and Radio School
Firm                     Legal services provided
(a) Clayton Utz          Relocation advice
(b) Blakes Dawson Waldron N/A
(c) Philips Fox           N/A
(d) Sparke Helmore        N/A
(e) Freehills             N/A
(f) Minter Ellison        N/A
(g) Corrs Chambers Westgarth N/A
(h) Mallesons Stephens Jaques N/A
(i) Deacons               N/A
(j) Craddock Murray Neumann N/A

Questions in Writing
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<tr>
<td>(b) Blakes Dawson Waldron</td>
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<tr>
<td>(c) Philips Fox</td>
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<tr>
<td>(d) Sparke Helmore</td>
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<tr>
<td>(e) Freehills</td>
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Questions in Writing
(d) Sparke Helmore  Employment advice  
(e) Freehills  N/A  
(f) Minter Ellison  Corporate and Employment advice  
(g) Corrs Chambers Westgarth  General advice  
(h) Mallesons Stephens Jaques  N/A  
(i) Deacons  General advice  
(j) Craddock Murray Neumann  N/A

Special Broadcasting Service Corporation  
Firm  Legal services provided  
(a) Clayton Utz  N/A  
(b) Blakes Dawson Waldron  Lease advice  
(c) Philips Fox  N/A  
(d) Sparke Helmore  N/A  
(e) Freehills  N/A  
(f) Minter Ellison  Court proceedings advice  
(g) Corrs Chambers Westgarth  N/A  
(h) Mallesons Stephens Jaques  N/A  
(i) Deacons  N/A  
(j) Craddock Murray Neumann  N/A

Telstra Corporation  
(1) to (4) Telstra has declined to provide the information sought on the basis that it is of a commercial in confidence nature and Telstra considers that it would be contrary to Telstra’s interests and those of its shareholders for such information to be made public.

Telstra  
(Question No. 3172)

Mr Murphy asked the Minister representing the Minister for Communications, Information Technology and the Arts, in writing, on 2 March 2006:

(1) Can the Minister confirm media reports that Telstra is proposing to slash 5000 payphones as part of its cost-cutting measures; if not why not.

(2) Has the Minister read the report of the review commissioned by the Government titled ‘Payphone Policy Review’, published in March 2004, which observed that there is a clear social requirement for payphones for people needing to make emergency calls, people without access to a phone at home, young people and low income earners; if not, why not.

(3) Is the Minister aware of the report’s observations that Telstra’s requirement to provide reasonable access to payphones is not clear and precise, and that Telstra has considerable latitude in meeting its obligations; if not, why not.

(4) Can the Minister ensure that payphones in the electorate of Lowe have not been, and will not be, targeted by Telstra’s planned cuts to services; if not, why not.

(5) Which laws ensure that Telstra provides and retains payphones in a manner that meets the social needs of groups which have a high level of reliance on payphones.

(6) Will the Minister exercise powers under Telstra Corporation Act 1991 to “give Telstra such written directions in relation to the exercise of powers of Telstra as appear to the Minister to be necessary in the public interest”, and request that current payphone levels be maintained; if not, why not.
(7) Will the Minister introduce amendments to the Telecommunications (Consumer Protection and Service Standard) Act 1999 to ensure that Telstra’s universal service obligation contain enforceable mandatory targets which are not subject to wide discretion or interpretation; if not, why not.

Mr McGauran—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member’s question:

(1) I have been advised of Telstra’s Payphone Rationalisation Program which proposes to reduce the number of payphones by approximately 5,000. There are currently more than 60,000 payphones in Australia.

(2) Yes. The Government accepted in full or part 31 of 33 recommendations of the Payphone Policy Review Report, which are aimed at improving service levels, in recognition of the clear social requirements for payphones for people needing to make emergency calls, people without access to a phone at home, young people and low income earners. Telstra’s Standard Marketing Plan (SMP) was amended as a result of the recommendations of the report to include a payphone siting criteria to accommodate the needs of people without access to a phone.

(3) Yes, and the Government agreed with the Inquiry’s finding that the previous approach required improvements, including amending Telstra’s SMP to implement recommendations of the Payphone Policy Review Report. The report was published in 2004 and Telstra’s SMP has been amended to implement recommendations of the report. Furthermore, on 8 June 2006, I announced a package of payphone initiatives that Telstra is now implementing. One of these initiatives involves a commitment from Telstra to further amend its SMP to give a clearer description of what constitutes having ‘reasonable access’ to a payphone.

(4) Telstra, as the primary universal service provider, is required by the Universal Service Obligation (USO) to make payphones reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business. Telstra’s SMP sets out the circumstances in which Telstra can remove payphones. ACMA’s role is to approve and monitor Telstra’s compliance with the SMP. This means that Telstra is unable to remove payphones that it is obliged to maintain under the USO, including those in the electoral division of Lowe.

(5) As primary universal service provider, Telstra has a legal obligation under the Telecommunications (Consumer Protection and Service Standards) Act 1999 to ensure that payphones are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business. Telstra’s SMP describes how it will provide payphones under USO.

(6) No. The Government has already exercised its powers under the Telecommunications (Consumer Protection and Service Standard) Act 1999 to legally require Telstra to ensure that payphones are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business. The package of initiatives I announced on 8 June 2006 will provide customers with a better understanding of their rights in relation to payphone services, improve Telstra’s processes, and improve consumer access to the Australian Communications and Media Authority (ACMA) in its compliance role. ACMA will now have a more active role in monitoring Telstra’s compliance with the USO and investigating payphone removals. ACMA will have dedicated staff on hand to fulfil its new complaints handling responsibility. Every Telstra payphone removal or relocation notice will also notify payphone users of ACMA’s role in handling complaints. ACMA has broad powers to take remedial action if it considers that Telstra has breached its Universal Service Obligations.

(7) No. There are already enforceable mandatory requirements on Telstra to ensure that payphones are reasonably accessible to all people in Australia on an equitable basis, wherever they reside or carry on business under the USO.
President of the State of Israel: Travel Costs
(Question No. 3543)
Mr Melham asked the Prime Minister, in writing, on 22 May 2006:
What sum was spent by the Commonwealth Government on:
(a) travel, (b) accommodation, (c) security, and (d) all other expenses for the visit to Australia in February-March 2005 by His Excellency Mr Moshe Katsav, President of the State of Israel, and Mrs Gila Katsav

Mr Howard—The answer to the honourable member’s question is as follows:
I am advised that as at 30 June 2006, the amount spent by the Department of the Prime Minister and Cabinet on travel, accommodation, security and all other expenses for the visit to Australia in February-March 2005 by His Excellency Mr Moshe Katsav, President of the State of Israel, and Mrs Gila Katsav was:
(a) travel, $65,984.05
(b) accommodation, $24,956.40
(c) security, $352.72
(d) other expenses, $40,280.07

Investing in Our Schools Program
(Question No. 3594)
Mr Fitzgibbon asked the Minister for Education, Science and Training, in writing, on 31 May 2006:
(1) How many schools in the electorates of (a) Hunter, (b) Paterson, (c) Shortland, (d) Charlton, and (e) Newcastle received funding in Round One of the Investing in Our Schools Programme.
(2) How many of the schools referred to in part (1) were (a) government, (b) Catholic, and (c) independent.
(3) How many schools in the electorates of (a) Hunter, (b) Paterson, (c) Shortland, (d) Charlton, and (e) Newcastle received funding in Round Two of the Investing in Our Schools Programme.
(4) How many of the schools referred to in part (3) were (a) government, (b) Catholic, and (c) independent

Ms Julie Bishop—The answer to the honourable member’s question is as follows:
A list of all schools successful in receiving a grant under the Investing in Our Schools Programme is available on the Department’s website at:

Child Care
(Question No. 3671)
Ms Plibersek asked the Prime Minister, in writing, on 19 June 2006:
(1) Do any agencies in the Minister’s portfolio offer childcare to employees; if so, which agencies.
(2) In respect of agencies that offer childcare, (a) is the childcare (i) long day care, (ii) outside school hours care, or (iii) another type of care, (b) is the childcare facility located at the agency’s premises; if so, (i) what is the maximum capacity of the childcare facility, (ii) is enrolment at the facility
available to children whose parents are not employees of the agency, and (iii) do the children of
agency employees receive preferential enrolment over the children of non-employees; if so, what
are the provisions of the preference rule; and (c) will the Minister provide a copy of the informa-
tion sheet given to employees seeking employer assistance with childcare.

(3) Are employees given the option of salary-sacrificing childcare offered by the agency.

(4) How many employees within each of the Minister’s portfolio agencies have made salary-sacrifice
arrangements with the employing agency for childcare expenses.

(5) In respect of the employees identified in the response to part (5), how many use on site-childcare.

(6) Do any of the Minister’s portfolio agencies have salary-sacrifice agreements relating to childcare
with employees who do not use the on-site childcare centre; if so, how many agreements of this
type are there?

(7) Will the Minister provide a copy of the childcare benefits provisions from the Certified Agreements
of each of the Minister’s portfolio agencies.

(8) What financial assistance for childcare, other than salary-sacrificed fees, is available to employees
(including those on AWAs) of each of the Minister’s portfolio agencies.

(9) Have any agencies in the Minister’s portfolio sought private or public rulings from the Australian
Taxation Office relating to childcare and fringe benefits tax; if so, when.

(10) Do any of the Minister’s portfolio agencies have arrangements with other Government agencies to
provide childcare to employees, such as sharing childcare facility costs at a site within, or external
to, one of the agencies.

Mr Howard—I am advised that the answer to the honourable member’s question is as fol-
lows:

(1) No.

(2) Not applicable.

(3) Not applicable.

(4) One, in one agency.

(5) None.

(6) The ANAO has one salary-sacrificing agreement relating to childcare.

(7) The following Certified Agreements do not include any special childcare benefit provisions:
• Department of the Prime Minister and Cabinet;
• Office of the Official Secretary to the Governor-General;
• National Water Commission;
• Office of National Assessments;
• Australian National Audit Office; and
• Office of the Inspector-General of Intelligence and Security.

The following childcare benefit provisions are outlined in Part E.8 of the Australian Public Service
Commission’s Collective Agreement:

“In recognition of dependant care responsibilities, the Commissioner may authorise reimbursement
of reasonable expenses arising from additional family care arrangements made necessary where an
employee is:
• required to travel away from their normal work location for business purposes; or

QUESTIONS IN WRITING
• directed to work additional hours or to attend a conference or learning and development course outside the standard bandwidth or outside the employee’s regular agreed hours of work.”

The Office of the Commonwealth Ombudsman’s Certified Agreement states:

“The Office is committed to supporting employees in accessing dependant care services and providing employees with current information about child and dependant care services.

In recognition of child and dependant care responsibilities, the Ombudsman may authorise reimbursement of reasonable expenses arising from additional family arrangements made necessary where an employee is:

a. required to travel away from his or her normal work location for business purposes; or
b. directed to work additional hours or attend a conference or training course outside the bandwidth or outside the employee’s normal hours of work.”

(8) None – other than the assistance referred to in the response to part (7) above.

(9) No.

(10) No.

Child Care
(Question No. 3675)

Ms Plibersek asked the Minister representing the Minister for Finance and Administration, in writing, on 19 June 2006:

(1) Do any agencies in the Minister’s portfolio offer childcare to employees; if so, which agencies.

(2) In respect of agencies that offer childcare, (a) is the childcare (i) long day care, (ii) outside school hours care, or (iii) another type of care, (b) is the childcare facility located at the agency’s premises; if so, (i) what is the maximum capacity of the childcare facility, (ii) is enrolment at the facility available to children whose parents are not employees of the agency, and (iii) do the children of agency employees receive preferential enrolment over the children of non-employees; if so, what are the provisions of the preference rule; and (c) will the Minister provide a copy of the information sheet given to employees seeking employer assistance with childcare.

(3) Are employees given the option of salary-sacrificing childcare offered by the agency.

(4) How many employees within each of the Minister’s portfolio agencies have made salary-sacrifice arrangements with the employing agency for childcare expenses.

(5) In respect of the employees identified in the response to part (4), how many use on site-childcare.

(6) Do any of the Minister’s portfolio agencies have salary-sacrifice agreements relating to childcare with employees who do not use the on-site childcare centre; if so, how many agreements of this type are there?

(7) Will the Minister provide a copy of the childcare benefits provisions from the Certified Agreements of each of the Minister’s portfolio agencies.

(8) What financial assistance for childcare, other than salary-sacrificed fees, is available to employees (including those on AWAs) of each of the Minister’s portfolio agencies.

(9) Have any agencies in the Minister’s portfolio sought private or public rulings from the Australian Taxation Office relating to childcare and fringe benefits tax; if so, when.

(10) Do any of the Minister’s portfolio agencies have arrangements with other Government agencies to provide childcare to employees, such as sharing childcare facility costs at a site within, or external to, one of the agencies.

QUESTIONS IN WRITING
Mr Costello—The Minister for Finance and Administration has supplied the following answer to the honourable member’s question:

Department of Finance and Administration (Finance)

1) Yes. Finance offers in-house childcare services to its employees.

2) (a) (i) Yes.
(ii) N/A.
(iii) N/A.

(b) Yes.

(b) (i) 79.
(ii) Yes.
(iii) Yes. Priority of accessing the centre is given to families where at least one parent is a current employee of Finance. However, enrolment is available to children whose parents are not employees of Finance where there is a vacancy for childcare places in accordance with the Priority of Access Guidelines (the guidelines). The provisions of the preference rule is based on the guidelines, which assist the service provider in determining the order in which children on the waiting list are offered childcare.

(c) No information sheet is provided to employees. Information regarding childcare facilities is available on the Finance intranet site.

3) Yes.

4) There are currently 56 Finance employees who salary package their in-house childcare fees.

5) 56.

6) No.

7) Finance staff, except for COMCAR drivers, are employed under an Australian Workplace Agreement (AWA) framework. There are no childcare benefits provisions in COMCAR’s Certified Agreement.

8) Finance provides financial assistance for childcare through the provision without charge of properly equipped premises.

9) Yes. On 2 March 2006, Finance applied for a private ruling from the Australian Taxation Office. The ruling has been obtained until the year ending 31 March 2008, and has entitled Finance to an exemption from fringe benefits tax on the provision of the in-house childcare services to its employees.

10) No.

Australian Electoral Commission (AEC)

1) to (6) No / Not applicable.

7) Yes. Relevant clauses relating to assistance with childcare arrangements at Attachment A - clauses 27 and 28 of the AEC 2004-2007 Certified Agreement.

8) AEC employees required to be away from home outside normal working hours may seek reimbursement of the costs associated with additional family care arrangements.

9) No.

10) No.
Australian Reward Investment Alliance (ARIA)*, Commonwealth Grants Commission, Future Fund Management Agency, ComSuper:
(1) to (10) No / Not applicable.
*Prior to 1 July 2006, ARIA was known as the CSS & PSS Boards.

Attachment A - Extract from Australian Electoral Commission CA 2004-2007 re assistance with child-care

27 Dependant Care While Travelling
27.1 In accordance with AEC guidelines, where employees are required by the AEC to be away from home outside normal working hours, a reimbursement of costs associated with additional family care arrangements may be approved.

28 Childcare Referral Service
28.1 The AEC is committed to supporting employees in accessing childcare services and continuing with the use of the National Childcare Referral Service.
28.2 This service has been arranged to make the task of finding childcare easier for AEC employees and their families. A national database of childcare services is used in order to be able to provide the latest information on childcare services anywhere in Australia.
28.3 Assistance is also provided with general enquiries about:
• the different types of child care available;
• fee relief offered by the government;
• national average prices for the different forms of care;
• advice on how to access child care services; and
• accreditation (childcare centres are participating in a quality improvement and accreditation process).

Governor-General
(Question No. 3728)
Mr Melham asked the Prime Minister, in writing, on 20 June 2006:
(1) On what date and by what means did the Prime Minister advise Her Majesty, the Queen, to agree that His Excellency Major General Michael Jeffery AC CVO MC serve as Governor-General for a further period of at least two years.
(2) When and by what means did Her Majesty indicate her agreement.
Mr Howard—The answer to the honourable member’s question is as follows:
(1) and (2) the appropriate advice was given in the appropriate way.

F-22A Aircraft
(Question No. 3801)
Mr McClelland asked the Minister for Defence, in writing, on 8 August 2006:
(1) Will he confirm media reports that attempts were made by the United States in 1999-2001 to clear the F-22A aircraft for export to Australia; if so, is this in conflict with the statement made by the Chief of Air Force, Air Marshal Shepherd, at the Senate’s Foreign Affairs, Defence and Trade Legislation Committee Budget Estimates hearing of 31 May 2006 that the United States “are not allowed to pursue its sale with any other countries” (Hansard, 31 May 2006, page 23), and in earlier
statements before the Joint Standing Committee for Foreign Affairs, Defence and Trade to the effect that the F-22A is not available for export.

(2) Will he confirm reports that attempts to clear the F-22A for export were stifled when the former Minister for Defence, Senator Robert Hill, and then Chief of Air Force, Air Marshal Houston, unilaterally bypassed the AIR 6000 fighter project by rejecting the F-22A in favour of the Joint Strike Fighter.

(3) Will he advise whether Japan is currently lobbying to acquire F-22A aircraft from the United States.

Dr Nelson—The answer to the honourable member’s question is as follows:

(1) A United States legislative prohibition has been placed on the overseas sale of the F-22A since approval of the Financial Year 1998 United States Defense Appropriation Bill. Australia has never formally sought release for sale of the F-22A. Ongoing assessment continues to reaffirm the Defence assessment that the Joint Strike Fighter (JSF) will mature to most cost-effectively meet Australia’s future air combat capability requirements.

(2) Australia joined the System Development and Demonstration phase of the JSF Program in 2002 after consideration of the full-range of aircraft available for Project AIR 6000. Ongoing detailed Defence analysis reaffirms this decision and the Government remains confident that the stealthy, fifth generation, multi-role JSF will mature to meet Australia’s air combat capability requirements in the most cost-effective way.

(3) While there has been press reports suggesting that Japan may be considering pursuing an F-22A acquisition, the Government can not confirm if such an action is being formally pursued.

NH-90 Helicopter
(Question No. 3802)

Mr McClelland asked the Minister for Defence, in writing, on 8 August 2006:

(1) Will he confirm that the German Bundeswehr is the international launch customer for the NH90 helicopter.

(2) Will he confirm that qualification was granted for the German NH90 helicopter on 31 March 2006, but that no aircraft were in use or operational service in that country at 19 June 2006.

(3) Will he advise whether deliveries of NH90 helicopters to Germany have commenced; if so, how many aircraft have been delivered and when.

Dr Nelson—The answer to the honourable member’s question is as follows:

(1) Yes.

(2) On 31 March 2006, the Executive Meeting under the NAHEMA (NATO Helicopter Management Agency) qualification procedure was held. During this meeting, the Final Compliance Report was accepted. This is the equivalent of granting qualification. NH 90 helicopters were in use for operational test and evaluation, but not in operational service as at 19 June 2006.

(3) The first NH90 helicopter will be delivered to Germany on 8 September 2006.

Joint Strike Fighter
(Question No. 3827)

Mr McClelland asked the Minister for Defence, in writing, on 8 August 2006:

In reference to his answer to question No. 3579 part (6) (b), (a) to which “obsolescence issues associated with the F-22” was he referring, (b) within what timeframe are aspects of the F-22 estimated to become obsolete, and (c) how will acquisition of the Joint Strike Fighter avoid obsolescence issues.
Dr Nelson—The answer to the honourable member’s question is as follows:

(a) The F-22A is currently facing obsolescence issues in relation to its avionics and sensor suite.
(b) These obsolescence issues are being addressed now.
(c) The Joint Strike Fighter Program will avoid obsolescence issues through a number of strategies:
   • An open systems approach has been adopted for both hardware and software to ensure new systems can be readily accommodated.
   • JSF sustainment will be managed through a performance based logistics approach in which responsibility for addressing obsolescence issues will rest with Lockheed Martin and the subsidiary original equipment manufacturers (OEMs).
   • The linking of production and sustainment of components with OEMs provides surety of business to the OEMs.
   • The JSF global fleet will be of sufficient size (compared to the F-22) to make the demand for replacement and repair of parts sufficiently high to make viable continued OEM investment into product improvement and continuity of supply.
   • The JSF follow-on development program will include a scheduled minor upgrade every two to four years, providing an opportunity to pre-empt obsolescence issues.
   • A key factor for assuring uninterrupted production and sustainment of the JSF Air System will be process-driven and proactive mitigation of the effects of Diminishing Manufacturing Sources and Material Shortages (DMSMS), which is defined as the loss, or impending loss, of manufacturers of items or suppliers of items or raw materials that support the F-35 JSF Program. In order to accomplish this, the F-35 JSF Program will institute a proactive, technology management process with the objective of protecting aircraft manufacturing, deliveries, and sustainment by ensuring that DMSMS does not preclude the availability of sufficient materials and/or parts-on-hand.

Israel
(Question No. 3841)

Mr Murphy asked the Minister for Foreign Affairs, in writing, on 8 August 2006:
Was he advised prior to 13 July 2006 that Israel intended to make a military strike in Beirut and on the Hezbollah in South Lebanon.

Mr Downer—The answer to the honourable member’s question is as follows:
No.

Small Business
(Question No. 3899)

Mr Fitzgibbon asked the Minister for Small Business and Tourism, in writing, on 10 August 2006:
In respect of the publication Encouraging Enterprise: A Report on Small Business 2005-06, can she advise
(a) the cost of production, disaggregated to show (i) staff, (ii) production and (iii) distribution costs:
(b) how many copies were (i) printed and (ii) distributed; and
(c) how copies were distributed.
Fran Bailey—The answer to the honourable member’s question is as follows:

(a) There is a government requirement that the Regulatory Performance Indicator report be provided on an annual basis in the Annual Review of Small Business.
   (i) Staff
       Department of Industry, Tourism and Resources Staff costs were $25,180.
   (ii) Production
       Printing costs were $11,079.20
       Graphic Design was provided within the Department, and is included in the above staff costs (i).
   (iii) Distribution costs
       Postage, $260
       Freight, $360

(b) (i) Printed
    1,000 copies were printed.
   (ii) Distributed
    770 copies have been distributed as at 30 August 2006. Copies are also available on the Department of Industry, Tourism and Resources’ website and through www.business.gov.au.

(c) Copies of the publication were distributed by hand, air freight, post and the websites noted in (b)(ii) above.

Small Business
(Question No. 3900)

Mr Fitzgibbon asked the Minister for Small Business and Tourism, in writing, on 10 August 2006:

In respect of her claim in the publication Encouraging Enterprise: A Report on Small Business 2005-06 that: “the Regulation Taskforce, jointly announced by the Prime Minister and the Treasurer in October 2005, and the $50 million Regulation Reduction Incentive Fund have already delivered tangible benefits to the business community”, can she advise what “tangible benefits” have been delivered.

Fran Bailey—The answer to the honourable member’s question is as follows:

The Government recently announced its response to the Report of the Taskforce on Reducing the Regulatory Burdens on Business (Banks Report). Some of the benefits from the Government’s response have already begun flowing through to small business and other changes which will directly benefit small business have already been locked into the Government’s agenda. The benefits which have or will flow to the business community include:

- Halving of the incorporation fee from $800 to $400 effective from 1 July 2006;
- On 31 August 2006 I launched the New to Business Checklist which helps people starting or buying a business to understand the steps involved and tells them where to look for more information;
- Introduction of a simplified GST accounting method for small restaurants, café and caterers streamlining GST obligations and compliance costs from 1 October 2006;
- An increase in the minor fringe benefits exemption threshold from $100 to $300, effective from 1 April 2007;
- An increase in the fringe benefits reporting exclusion threshold from $1000 to $2000, effective from 1 April 2007;
Streamlined business name and ABN registration processes and making improved information available to businesses is being undertaken through COAG;

Enhancing www.business.gov.au at a cost of $29.6 million over three years to implement the use of electronic signatures so that electronic forms can be verified; and

Announcing the review of the Privacy Act 1988 by the Australian Law Reform Commission to consider, among other things, the impact of privacy requirement on business compliance costs.

Benefits to the business community from the $50 million Regulation Reduction Incentive Fund (RRIF) are already evident. Although projects under the competitive grants component of the RRIF are still at an early stage, the demonstration projects have been completed and the results are outlined on the Australian Government business website business.gov.au. The RRIF has also provided a catalyst for councils to work together on the standardisation and rationalisation of regulatory compliance processes across local government regions and state boundaries. Details of the projects funded in the competitive grant component of the RRIF can be found on the AusIndustry website, www.ausindustry.gov.au.

Small Business Council
(Question No. 3902)

Mr Fitzgibbon asked the Minister for Small Business and Tourism, in writing, on 10 August 2006:

In respect of the Small Business Council, will she

(a) outline the role and membership of the Small Business Council, including the terms of appointment of its members,

(b) provide details of all meetings since its establishment in 2003 and

(c) provide details of all costs associated with the Small Business Council, disaggregated to show expenses associated with travel, accommodation, meetings, remuneration and other costs.

Fran Bailey—The answer to the honourable member’s questions is as follows:

(a) In 2003, the Small Business Council was established by the Government as a forum to meet with small business operators and discuss a range of small business issues. Specifically, the Council was to provide on-going advice on small business issues; identify and investigate issues impacting on the growth and development of small business; and explore possible solutions to address identified issues.

The following members were appointed for the period November 2003 to December 2004.

Ms Kim Tunbridge (Chair);
Mr Paul Adler;
Mr Bruce Fadelli;
Ms Amy Lyden;
Mr John Malkovich;
Mr Ken Porter;
Mr Peter Searle;
Mrs Alison Stubbs;
Mrs Annette Sym;
Mrs Leanne Wesche;
Mr Craig Wickham; and
Mrs Heather Woodward.
The terms of these members were subsequently extended for a further twelve months to February 2006.

(b) Since November 2003 the Council met seven times, in Canberra, on:
- 27 November 2003;
- 1 April 2004;
- 12 August 2004;
- 8 December 2004;
- 10 March 2005;
- 5 July 2005; and
- 23 November 2005.

Teleconferences were held to deal with Council matters out-of-session.

(c) The Remuneration Tribunal determined the level of fees and allowances paid to members. Travel and allowances were paid at the Tier 1 level. From July 2005, the level of per diem sitting fee for the Chair was $694 ($524 for members).

From November 2003 to February 2006, total costs associated with the Council were $153,859. Included in this total were: sitting fees of $39,869; airfare and travel allowances/expenditure of $109,070; meeting expenses of $2,850; and teleconference/telephone expenditure of $2,070.

Pilot Training

(4) Mr McClelland asked the Minister for Defence, in writing, on 15 August 2006:

1. How long are newly qualified RAAF and/or RAN pilots waiting before commencing conversion training to their respective operational aircraft types.

2. How and where are the newly qualified pilots employed in the interim period between finishing flight training at RAAF Pearce and commencing conversion training to their operational aircraft type.

3. Is it the case that some newly qualified RAAF/RAN pilots have required re-training at RAAF Pearce due to protracted delays in commencing operational conversion training; if so, how many pilots have required re-training.

4. Do delays in commencing operational conversion training impact adversely upon the standards attained during conversion training; if so, how many pilots have been removed from conversion training due to an inability to achieve minimum standards following a lengthy delay in the commencement of conversion training.

Dr Nelson—The answer to the honourable member’s question is as follows:

1. From June 2004 to May 2006, the delay from graduation to operational conversion has taken, on average, four months. Averages from each Force Element Group are:
   - Air Lift Group – 6.1 months;
   - Surveillance and Response Group – 3.9 months;
   - Air Combat Group – 2.4 months; and
   - Royal Australian Navy – 3.5 months.

2. From June 2004 to May 2006, 45 per cent of Air Force graduates attended the Intermediate Flying Scheme (IFS), which is designed to keep graduate skills proficient on PC9 aircraft while waiting for operational conversion. The IFS is conducted at 2 Flight Training School with an average time
of 6.5 months (longest period 14 months). The remaining 55 per cent either commenced operational conversion training or were gainfully employed on work experience, further training (non flying), or commenced work at their units as Operations Officers. On completion of the RAAF Advanced Pilot course at Pearce, Navy pilots conduct Pilot Basic Rotary Course conversion at HMAS Albatross (723 Squadron).

(3) Some Air Force pilots have required re-currency flying before commencing operational conversion. This is not re-training and has not occurred in the past 12 months. No newly qualified Navy pilots have required re-training at Pearce.

(4) Members who have experienced delays in commencing operational conversion courses have performed to the required standard without any appreciable increase in training effort. There have been no removals from conversion training due to delays in commencement of that training.

Mr Trevor Flugge
(Question No. 3940)

Mr Sercombe asked the Minister for Foreign Affairs, in writing, on 15 August 2006:
Did the Australian Government provide Mr Trevor Flugge with a written undertaking that, in the event of his death while on Government services in Iraq, the Government would compensate his estate, and if so what was the sum specified in the written undertaking.

Mr Downer—The answer to the honourable member’s question is as follows:

(1) The Government undertook to compensate, in the event of death, the amount of Mr Flugge’s pre-existing life insurance policy that became invalid in a war zone. Due to requirements under the Privacy Act 1988, the specific amount of that coverage will not be released.

Expenditure Estimates
(Question No. 3958)

Mr Tanner asked the Minister representing the Minister for Communications, Information Technology and the Arts, in writing, on 16 August 2006:
What are the latest projected expenditure estimates for 2006-07 to 2010-11 for the (a) Telstra Social Bonus 2, (b) Regional Telecommunications Inquiry Response, (c) Building on IT Strengths, (d) Information Technology On-Line and (e) the Metro Broadband Blackspots Program.

Mr McGauran—The Minister for Communications, Information Technology and the Arts has provided the following answer to the honourable member’s question:

(a) to (e) The projected expenditure estimates for 2006-07 to 2010-11 as of August 2006 are:

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