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SITTING DAYS—2006

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- ADELAIDE 972 AM
- PERTH 585 AM
- HOBART 747 AM
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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

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<td>Wood, Jason Peter</td>
<td>La Trobe, Vic</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
The Hon. John Winston Howard MP

Minister for Transport and Regional Services and
Deputy Prime Minister
The Hon. Mark Anthony James Vaile MP

Treasurer
The Hon. Peter Howard Costello MP

Minister for Trade
The Hon. Warren Errol Truss MP

Minister for Defence
The Hon. Dr Brendan John Nelson MP

Minister for Foreign Affairs
The Hon. Alexander John Gosse Downer MP

Minister for Health and Ageing and Leader of the
House
The Hon. Anthony John Abbott MP

Attorney-General
The Hon. Philip Maxwell Ruddock MP

Minister for Finance and Administration,
Leader of the Government in the Senate and
Vice-President of the Executive Council
Senator the Hon. Nicholas Hugh Minchin

Minister for Agriculture, Fisheries and Forestry
and Deputy Leader of the House
The Hon. Peter John McGauran MP

Minister for Immigration and Multicultural Affairs
Senator the Hon. Amanda Eloise Vanstone

Minister for Education, Science and Training and
Minister Assisting the Prime Minister for
Women’s Issues
The Hon. Julie Isabel Bishop MP

Minister for Families, Community Services and
Indigenous Affairs and Minister Assisting the
Prime Minister for Indigenous Affairs
The Hon. Malcolm Thomas Brough MP

Minister for Industry, Tourism and Resources
The Hon. Ian Elgin Macfarlane MP

Minister for Employment and Workplace
Relations and Minister Assisting the Prime
Minister for the Public Service
The Hon. Kevin James Andrews MP

Minister for Communications, Information
Technology and the Arts and Deputy Leader of
the Government in the Senate
Senator the Hon. Helen Lloyd Coonan

Minister for the Environment and Heritage
Senator the Hon. Ian Gordon Campbell

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<td>Senator the Hon. Christopher Martin Ellison</td>
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<td>Senator the Hon. Eric Abetz</td>
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<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
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<tr>
<td>Minister for Human Services and Minister Assisting the Minister for Workplace Relations</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
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<td>Minister for Community Services</td>
<td>The Hon. John Kenneth Cobb MP</td>
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<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<tr>
<td>Special Minister of State</td>
<td>The Hon. Gary Roy Nairn MP</td>
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<td>Minister for Vocational and Technical Education and Minister Assisting the Prime Minister</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
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<td>Senator the Hon. Santo Santoro</td>
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<td>Minister for Small Business and Tourism</td>
<td>The Hon. Frances Esther Bailey MP</td>
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<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
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<tr>
<td>Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence</td>
<td>The Hon. Bruce Frederick Billson MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<td>Parliamentary Secretary to the Minister for Industry, Tourism and Resources</td>
<td>Senator the Hon. Richard Mansell Colbeck</td>
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<td>The Hon. Robert Charles Baldwin MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon. Christopher Maurice Pyne MP</td>
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<td>Parliamentary Secretary to the Minister for Transport and Regional Services</td>
<td>Senator the Hon. John Alexander Lindsay (Sandy) Macdonald</td>
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<td>Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs</td>
<td>The Hon. De-Anne Margaret Kelly MP</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon. Andrew John Robb MP</td>
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<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon. Malcolm Bligh Turnbull MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
<td>The Hon. Christopher John Pearce MP</td>
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<td>The Hon. Gregory Andrew Hunt MP</td>
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<td>Parliamentary Secretary to the Minister for Education, Science and Training</td>
<td>The Hon. Sussan Penelope Ley MP</td>
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<tr>
<td>Parliamentary Secretary (Foreign Affairs)</td>
<td>The Hon. Patrick Francis Farmer MP</td>
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<td>The Hon. Kim Christian Beazley MP</td>
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<tr>
<td>Deputy Leader of the Opposition and Shadow</td>
<td>Jennifer Louise Macklin MP</td>
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<tr>
<td>Minister for Education, Training, Science and Research</td>
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<tr>
<td>Leader of the Opposition in the Senate, Shadow</td>
<td>Senator Christopher Vaughan Evans</td>
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<tr>
<td>Minister for Indigenous Affairs and Shadow</td>
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<tr>
<td>Minister for Family and Community Services</td>
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<tr>
<td>Deputy Leader of the Opposition and Shadow</td>
<td>Senator Stephen Michael Conroy</td>
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<tr>
<td>Shadow Minister for Communications and Information Technology</td>
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<tr>
<td>Shadow Minister for Health and Manager of Opposition Business in the House</td>
<td>Julia Eileen Gillard MP</td>
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<tr>
<td>Shadow Treasurer</td>
<td>Wayne Maxwell Swan MP</td>
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<tr>
<td>Shadow Attorney-General</td>
<td>Nicola Louise Roxon MP</td>
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<tr>
<td>Shadow Minister for Industry, Infrastructure and Industrial Relations</td>
<td>Stephen Francis Smith MP</td>
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<tr>
<td>Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security</td>
<td>Kevin Michael Rudd MP</td>
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<tr>
<td>Shadow Minister for Defence</td>
<td>Robert Bruce McClelland MP</td>
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<tr>
<td>Shadow Minister for Regional Development</td>
<td>The Hon. Simon Findlay Crean MP</td>
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<tr>
<td>Shadow Minister for Primary Industries, Resources, Forestry and Tourism</td>
<td>Martin John Ferguson MP</td>
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<tr>
<td>Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House</td>
<td>Anthony Norman Albanese MP</td>
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<tr>
<td>Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories</td>
<td>Senator Kim John Carr</td>
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<tr>
<td>Shadow Minister for Public Accountability and Shadow Minister for Human Services</td>
<td>Kelvin John Thomson MP</td>
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<tr>
<td>Shadow Minister for Finance</td>
<td>Lindsay James Tanner MP</td>
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<tr>
<td>Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services</td>
<td>Senator the Hon. Nicholas John Sherry</td>
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<tr>
<td>Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women</td>
<td>Tanya Joan Plibersek MP</td>
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<tr>
<td>Shadow Minister for Employmnt and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility</td>
<td>Senator Penelope Ying Yen Wong</td>
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<td>Laurie Donald Thomas Ferguson MP</td>
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<td>Gavan Michael O’Connor MP</td>
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<tr>
<td>Health Regulation</td>
<td>Joel Andrew Fitzgibbon MP</td>
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<tr>
<td>Shadow Minister for Agriculture and Fisheries</td>
<td>Senator Kerry Williams Kelso O’Brien</td>
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<td>Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow</td>
<td>Senator Kate Alexandra Lundy</td>
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<tr>
<td>Minister for Small Business and Competition</td>
<td>The Hon. Archibald Ronald Bevis MP</td>
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<td>Shadow Minister for Transport</td>
<td>Alan Peter Griffin MP</td>
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<tr>
<td>Shadow Minister for Sport and Recreation</td>
<td>Senator Thomas Mark Bishop</td>
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<tr>
<td>Shadow Minister for Homeland Security and</td>
<td>Anthony Stephen Burke MP</td>
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<tr>
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<td>Kirsten Fiona Livermore MP</td>
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<td>Jennie George MP</td>
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Wednesday, 29 November 2006

The SPEAKER (Hon. David Hawker) took the chair at 9.00 am and read prayers.

BUSINESS

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

That:

(1) the following sessional orders be adopted as permanent standing orders:

(a) In standing order 1, Maximum speaking times, the section of the table headed Committee and delegation reports on Mondays be:

| Committee and delegation reports on Mondays in the House | 10 mins maximum, as allotted by the Selection Committee |
| Each Member | 10 mins |
| in the Main Committee | 10 mins |
| Each Member (standing orders 39, 40, 192(b)) | 10 mins |

(b) In standing order 1, Maximum speaking times, after the section of the table headed Condo- lence motion, the following be inserted:

| Dissent motion | 30 mins |
| Whole debate | 10 mins |
| Mover | 5 mins |
| Seconder | 10 mins |
| Member next speaking | 5 mins |
| Any other Member (standing order 87) | 5 mins |

(c) Standing order 39:

39 Presentation of reports

(a) Members can present reports of committees or delegations:

(i) as agreed by the Selection Committee, following prayers on Mondays; or

(ii) at any time when other business is not before the House.

(b) Members can make statements in relation to these reports:

(i) during the special set period on Mondays (standing order 34); the Selection Committee shall set time limits for statements, of not more than 10 minutes for each Member; or

(ii) at any other time, by leave of the House.

(c) The Member presenting a report may move without notice, a specific motion in relation to the report. When a report has been presented on Monday under paragraph (a)(i) debate on the question shall be adjourned to a later hour and a motion may be moved that the report be referred to the Main Committee. In other cases debate shall be adjourned to a future day.

(d) Standing order 40:

40 Resumption of debate on reports

(a) After presentation of reports on Mondays proceedings may be resumed on motions in relation to committee and delegation reports moved on an earlier day.

(b) For debate in accordance with paragraph

(a) the Selection Committee shall set:
(i) the order in which motions are to be considered;
(ii) time limits for the whole debate; and
(iii) time limits for each Member speaking, of not more than 10 minutes.

(c) During the period provided by standing order 192 proceedings may be resumed in the Main Committee on motions in relation to committee and delegation reports referred that day or on an earlier day.

(e) Standing order 187:

187 Maintenance of order

(a) In the Main Committee the Deputy Speaker has the same responsibility for the preservation of order as the Speaker has in the House.

(b) If disorder occurs in the Committee, the Deputy Speaker:

(i) may direct the Member or Members concerned to leave the room for a period of 15 minutes [standing order 94(e) (exclusion from Chamber, etc.) does not apply]; or

(ii) may, or on motion moved without notice by any Member must, suspend or adjourn the sitting. If the sitting is adjourned, any business under discussion and not disposed of at the time of the adjournment shall be set down on the Notice Paper for the next sitting.

(c) Following a suspension or adjournment of the Committee or a refusal of a Member to leave when so directed under paragraph (b), the Deputy Speaker must report the disorder to the House.

(d) The Deputy Speaker may report the conduct of a Member whether or not action has been taken under paragraph (b).

(e) Any subsequent action against a Member under standing order 94 (sanctions against disorderly conduct) may only be taken in the House.

(f) Standing order 190

190 General rules for suspensions and adjournments of the Main Committee

The following general rules apply to meetings of the Main Committee:

(a) The Deputy Speaker must suspend proceedings in the Committee to enable Members to attend divisions in the House.

(b) If a quorum is not present the Deputy Speaker must immediately suspend proceedings until a stated time, or adjourn the Committee.

(c) If the House adjourns, the Deputy Speaker must interrupt the business before the Committee and immediately adjourn the Committee.

(d) The Committee need not adjourn between items of business, nor during a suspension of the House.

(e) The Committee shall stand adjourned at 6 pm, unless otherwise ordered, when the committee meets on Mondays in accordance with standing order 192(b), or on completion of all matters referred to it, or may be adjourned on motion moved without notice by any Member—

That the Committee do now adjourn.

(f) No amendment may be moved to the question.

(g) Standing order 192

192 Main Committee’s order of business

(a) If the Committee meets on a Wednesday or Thursday the normal order of business is set out in figure 4.

(b) On sitting Mondays the Committee shall meet from 4 pm to 6 pm if required to consider orders of the day relating to committee and delegation reports in accordance with standing order 40 (resumption of debate on reports).
The sitting times of the Main Committee are set by the Deputy Speaker and are subject to change. Additional sittings may be scheduled if required. Adjournment debates can occur on days other than Thursdays by agreement between the whips.

(h) Standing order 193

**193 Members’ three minute statements**

If the Main Committee meets before 10 am the first item of business shall be statements by Members. The Deputy Speaker may call a Member, including a Parliamentary Secretary but not a Minister, to make a statement for no longer than three minutes. The period for Members’ statements may continue for 30 minutes, irrespective of suspensions for divisions in the House.

(i) Standing order 77:

**77 Anticipating discussion**

During a debate, a Member may not anticipate the discussion of a subject listed on the Notice Paper and expected to be debated on the same or next sitting day. In determining whether a discussion is out of order the Speaker should not prevent incidental reference to a subject.

(2) standing orders 100(f) and 248 be deleted;

(3) a new standing order 40A be inserted, as follows:

**40A Removal of committee and delegation reports orders of the day**

The Clerk shall remove from the Notice Paper an order of the day relating to committee and delegation reports which has not been called on for eight consecutive sitting Mondays.

(4) standing order 18(a) be amended to read:

18(a) If the Speaker is absent the Deputy Speaker shall be the Acting Speaker. If both the Speaker and the Deputy Speaker are absent, the Second Deputy Speaker shall be the Acting Speaker.
standing order 41(d) be amended to read:

41(d) When each notice is called on by the Clerk, the Member in whose name the notice stands may present the bill, together with an explanatory memorandum (if available), and may speak to the bill for no longer than 5 minutes. The bill shall be then read a first time and the motion for the second reading shall be set down on the Notice paper for the next sitting.

standing order 2, definition of area of Members’ seats be amended to read:

area of Members’ seats means the area of seats on the floor of the Chamber reserved for Members. It does not include seats in the advisers’ box or special galleries, but does include the seat where the Serjeant-at-Arms usually sits. The expression is used in standing orders 128 and 129 (divisions). See figure 1.

unless otherwise ordered, the following amendments to the standing orders be adopted to operate from the commencement of sittings in 2007 until the end of June 2007:

(a) Insert in standing order 39:

39(d)(i) Delegation reports may also be presented to the Speaker at any time. Delegation reports thus presented are deemed to have been presented to the House on the next sitting day following presentation, and ordered listed as separate orders of the day on the Notice Paper under Main Committee, committee and delegation reports, for debate during the period provided by standing order 192(b).

(ii) Debate on the delegation reports orders of the day will have priority over all other reports on the next sitting Monday in the Main Committee unless otherwise determined by the Selection Committee.

(b) Insert in standing order 1, Maximum speaking times, in the section of the table headed Committee and delegation reports on Mondays:

| Delegation reports deemed presented (in accordance with sessional order 39(d)(i)) in the Main Committee | 5 mins each |
| Two Members |

I will not detain the House for long in debating this. I simply point out that these were the recommendations of the Procedure Committee. I think they are good recommendations and I congratulate the Procedure Committee on making them.

Ms GILLARD (Lalor—Manager of Opposition Business) (9.01 am)—Despite the consternation my presence in the House seems to engender on government benches when I appear at this time of day, I am actually here to support the motion moved by the Leader of the House. I also forward my congratulations to the Procedure Committee. I spoke on these changes in some detail in the Main Committee this week. I think that they are changes that improve the standing orders. Most particularly, these changes bolster the rights of members, in their capacity as private members, to make contributions on their electorates in the Main Committee in their capacity as having served on delegations and the like, so consequently these changes do have our support. I thank the Procedure Committee for their work and I thank the Leader of the House for bringing these changes to the House as quickly as this.

Question agreed to.

AIRSPACE BILL 2006

First Reading

Bill and explanatory memorandum presented by Mrs De-Anne Kelly, for Mr Vaile.

Bill read a first time.
Second Reading

Mrs DE-ANNE KELLY (Dawson—Parliamentary Secretary to the Minister for Transport and Regional Services) (9.03 am)—I move:

That this bill be now read a second time.

This bill provides for the transfer of airspace regulation and administration from Airservices Australia to the Civil Aviation Safety Authority (CASA). This will create a new function for CASA of civil airspace regulator. CASA will continue to be subject to its existing primary obligation to regard the safety of air navigation as the most important consideration.

As a nation, Australia is responsible for administering 11 per cent of the airspace above the earth’s surface. It is vital to the aviation industry that this airspace is well administered.

The airspace Australia is responsible for is divided into blocks, with the level of air navigation services for each particular volume of airspace being determined through a classification process. This process takes account of a range of factors—including the local topography and number and type of aircraft that use that airspace.

Since 1995, Airservices Australia has been responsible for classifying each particular volume of non-defence airspace to set the level of services it needs to ensure safety and efficiency of aircraft operations, while also taking account of its other legislative obligations including environmental protection.

However, the government considers that to progress airspace reform and ensure Australia’s airspace management reflects best management practice, airspace regulatory functions need to be separated from Airservices Australia due to the potential for a conflict of interest between Airservices Australia’s industry and commercial focus and its airspace regulatory functions. The government wants to ensure that Airservices Australia’s airspace regulatory decisions can not in any way be seen to have been influenced by its commercial relationships and focus on efficiency. The government has decided that it is time to remove any perception of a conflict of interest by moving airspace classification and designation to the government’s civil aviation safety regulator—CASA.

CASA will perform this function by establishing a dedicated administrative unit within the authority—the Office of Airspace Regulation.

This legislation to transfer the airspace regulatory function from Airservices to CASA provides an opportunity for a series of other important changes to airspace regulation and administration. This opportunity comes against the background of important international and domestic developments. The International Civil Aviation Organisation has released a global Air Traffic Management Operational Concept: a vision for an integrated, harmonised and globally interoperable air traffic management system that will take the world beyond 2025. The Australian government has itself been implementing a substantial change to the way Australian airspace is administered through introducing the National Airspace System, based on the National Airspace System of the United States of America. There has also been a rise of satellite based technologies offering new systems for aircraft navigation and surveillance that will change the way in which airspace is administered in the future.

It is important that Australia’s regulatory arrangements enable us to take advantage of new technologies and approaches to improving the safety and efficiency of our airspace administration.

The government considers it important that clear objectives are set for Australian-
administered airspace and that the Australian aviation community is given the opportunity to participate in the process for considering and analysing airspace change. This will provide a solid base for decisions to be made on the future of Australian-administered airspace and the integration of Australian airspace into the global system while ensuring that Australian-administered airspace continues to make its contribution to a safe, secure and efficient aviation industry.

This bill requires that airspace change be underpinned by an Australian Airspace Policy Statement, which will outline the government’s objectives for civil airspace administration and provide assistance for industry in its investment decisions. The ministerial statement will be developed in consultation with the Minister for Defence, CASA, Airservices, the Department of Defence and the Australian aviation community. The statement will describe the processes to be followed for changing classifications and designations of particular volumes of airspace, the policy context for those processes and the Australian government’s strategy for the future administration and use of Australian administered airspace.

Importantly, the statement will require that major changes to Australian airspace will be made only after the results of a risk analysis, a detailed examination of the potential costs and benefits, and inclusive consultation with stakeholders to rigorously test proposed changes before they are implemented.

This process will ensure that CASA will continue to have safety as the most important consideration but that the safety case will always be properly justified. In considering reforms, CASA will also be obliged to look for opportunities to deliver benefits through greater efficiency, environmental protection, equity of access and national security. The government believes that we should not ignore the scope for benefits on these fronts if they can be obtained while preserving or enhancing safety standards. The assessment process will start with the remaining unimplemented elements of the NAS and continue for future proposals that fall outside the current NAS framework.

The Australian government expects that CASA will be an active regulator, undertaking ongoing risk reviews of the existing classifications of airspace and the services provided to ensure that they remain appropriate. The government also expects that CASA will take the lead on airspace system change, proposing and designing and steering the implementation of system changes consistent with the Australian Airspace Policy Statement. All of this activity will be with the aim of ensuring that Australian airspace remains safe, while also seeking benefits in terms of efficiency and the environment, and taking account of access and national security.

While this bill does not impose obligations upon Defence in relation to the decisions it takes, both Defence and CASA have undertaken to work closely together to ensure that the decisions each authority takes are closely coordinated. Airservices and Defence already have a close working relationship as both organisations provide air traffic control services in Australian administered airspace, and the government expects that Defence will work closely with CASA.

The cost of airspace regulation is currently borne by industry through air navigation charges levied by Airservices Australia. CASA will charge Airservices for the cost of airspace regulation and administration. Airservices will in turn pass that cost on to industry. CASA will establish an administratively separate unit to ensure that the costs of airspace regulation and administration are transparent, and it will be up to CASA to transparently demonstrate to the aviation
industry the value of the regulatory role it performs.

The transfer of the airspace regulatory function from Airservices to CASA forms part of a broader governance change for the Australian government’s civil aviation regulators. The government will shortly be introducing a bill to further improve CASA’s accountability and performance by making it subject to the Financial Management and Accountability Act 1997 and by changing the employment arrangements for CASA staff so that they are employed under the Public Service Act 1999. This legislative framework recognises that CASA is a government regulator and not a commercial business.

The government will be referring this bill to the Senate Standing Committee on Rural and Regional Affairs and Transport for consideration. I welcome their scrutiny and will watch their deliberation with interest. The referral of the bill to the committee is further evidence that the government is determined to achieve the best outcome for the aviation industry.

The world is changing and this bill is part of a broader change to the administration of Australian-administered airspace that will ensure Australia is well placed to take advantage of the benefits the future has to offer. This bill also ensures that the Australian aviation community will have the opportunity to understand and be a part of the process of determining that future.

Debate (on motion by Mr Crean) adjourned.

SECOND READING

MRS DE-ANNE KELLY (Dawson—Parliamentary Secretary to the Minister for Transport and Regional Services) (9.14 am)—I move:

That this bill be now read a second time.

The purpose of this bill is to make a number of consequential amendments to the Civil Aviation Act 1988. These amendments are necessary to allow the effective introduction of the Airspace Bill 2006.

Amendments to the Civil Aviation Act 1988 ensure that airspace regulation is a clear and separate function for the Civil Aviation Safety Authority and that it act consistently with the Australian Airspace Policy Statement. The bill also grandfathers decisions made by Airservices Australia under regulations to be transferred to the Civil Aviation Safety Authority.

The bill also makes a number of technical amendments to the Air Services Act 1995 and the Civil Aviation Act 1988 to accommodate amendments made to the functions of Airservices Australia by the Civil Aviation Legislation Amendment Bill 2003.

Debate (on motion by Mr Crean) adjourned.

CUSTOMS TARIFF AMENDMENT (INCORPORATION OF PROPOSALS) BILL 2006

FIRST READING

Bill and explanatory memorandum presented by Mr Ruddock.

Bill read a first time.

SECOND READING

MR RUDDOCK (Berowra—Attorney-General) (9.16 am)—I move:

That this bill be now read a second time.

The Customs Tariff Amendment (Incorporation of Proposals) Bill 2006 contains amendments to the Customs Tariff Act 1995
that were included in Customs Tariff Proposal No. 4 of 2005 and Customs Tariff Proposal No. 1 of 2006.

Firstly, the bill will alter item 47 of schedule 4 to the Customs Tariff Act by reducing the rate of customs duty from three per cent to free for goods entered under this item. Item 47 applies to machinery that incorporates, or is imported with, other goods which for technical reasons render the machinery ineligible for a tariff concession order. Item 47 allows such goods to be dutiable at the same rate of customs duty that would apply if the goods were subject to a tariff concession order.

The lowering of the duty rate applying to goods entered under item 47 maintains consistency with the 2005-06 budget decision to remove the three per cent duty on business inputs that are subject to a tariff concession order.

The measure will be of particular benefit to the mining industry, which is the main importer of goods covered under item 47. It will reduce costs to Australian business by $2 million per annum. This is in addition to the approximately $300 million per annum already saved through the original budget decision to remove the three per cent duty on business inputs that are subject to a tariff concession order.

This measure took effect from 11 May 2005.

Secondly, the bill alters item 31 of schedule 4 to the Customs Tariff Act. This item allows for duty-free entry of certain aircraft parts, materials and test equipment for use in the manufacture, repair and maintenance of aircraft. The bill proposes to alter item 31 by extending duty-free entry to certain goods used in the modification of aircraft.

The extension of item 31 to include goods for use in the modification of aircraft will reduce costs to business and will provide a clear incentive to continue heavy maintenance work in Australia. This will strengthen the international competitiveness of Australia’s aviation and maintenance industries, and is consistent with the government’s policy to improve the international competitiveness of Australia’s aerospace and aviation industries.

The main beneficiaries of this measure will be domestic airline and defence contractors, as well as Australia’s vibrant general aviation, aircraft manufacturing and modification industry. Many of the firms in this sector are located in regional Australia and this alteration to the Customs Tariff Act will provide a new certainty to underpin their competitiveness in the world market.

This measure was announced in the 2006-07 budget, and took effect from 1 July 2006.

Finally, the bill will alter item 71 of schedule 4 to the Customs Tariff Act by expanding the Enhanced Project By-law Scheme to include the duty-free entry of qualifying goods for the power supply and water supply industries.

Currently, item 71 underpins the Enhanced Project By-law Scheme offering tariff concessions to major projects in the mining, resource-processing, agriculture, food-processing, food-packaging, manufacturing and gas supply industries, for imported eligible goods that are not available from Australian production.

The inclusion of the power supply and water supply industries in the terms of item 71 will encourage investment, increase opportunities for Australian industry to participate in major projects, and lower business input costs.

The above amendment was also announced in the 2006-07 budget, and applies to goods imported and entered for home consumption on or after 1 July 2006.
Debate (on motion by Mr Crean) adjourned.

AUSTRALIAN ENERGY MARKET AMENDMENT (GAS LEGISLATION) BILL 2006

First Reading

Bill and explanatory memorandum presented by Mr Ian Macfarlane.
Bill read a first time.

Second Reading

Mr IAN MACFARLANE (Groom—Minister for Industry, Tourism and Resources) (9.20 am)—I move:

That this bill be now read a second time.

Under the oversight of the Ministerial Council on Energy, otherwise known as the MCE, Australia has made substantial progress towards an efficient and effective national energy market over recent years.

The bill I am introducing today represents a significant legislative step forward towards a truly national regime for the regulation of gas pipeline infrastructure, complete with national regulatory and national rule-making bodies.

The Australian Energy Market Amendment (Gas Legislation) Bill 2006 sees the Commonwealth take the lead in establishing the Ministerial Council on Energy’s cooperative legislative regime for regulating access to gas pipelines. This regime, once established, will ensure that the regulatory framework governing our energy sector is sound. This is crucial to Australia’s future energy security and economic growth.

The MCE’s cooperative legislative regime involves the development of the national gas law and the national gas rules, which will be applied in all participating jurisdictions to create a harmonised national gas access regime. The Ministerial Council on Energy has committed to establish this regime by 30 June 2007.

The new gas access regime will be underpinned by lead legislation enacted in the South Australian parliament. Early next year, the South Australian parliament will enact the National Gas (South Australia) Act 2007, and the national gas law will be the schedule to that act.

The introduction of this bill does not affect the making of the national gas law. A draft of the national gas law was released for consultation on 7 November 2006. All MCE ministers will consider the outcome of that consultation process before agreeing to a final version.

The Commonwealth and all states and territories, with the exception of Western Australia, have agreed to introduce legislation, known as application acts, to apply the national gas law as law in their own jurisdictions. WA will pass mirror legislation with content similar to the NGL, rather than applying the NGL established by South Australian law.

This bill amends the Australian Energy Market Act 2004 to make it the ‘Commonwealth Application Act’ for the new gas access regime. The Australian Energy Market Act, once amended, will apply the national gas law in the Commonwealth’s jurisdiction, ensuring that the new gas access regime applies throughout Australia, including offshore areas and external territories.

Under the current gas access regime nine different regulators make decisions and determinations, leading to uncertainty and inconsistency in the application of regulation. Under the new national gas law, the regulation of all gas transmission and distribution pipelines, except in Western Australia, will be undertaken by the Commonwealth Australian Energy Regulator, known as the AER. This crucial reform will lead to a more effi-
cient and consistent regulatory decision-making process.

It is vital that the Commonwealth parliament take a legislative lead in establishing this regime by enacting legislative amendments that will appropriately empower the AER, and two other Commonwealth bodies—the National Competition Council (NCC) and the Australian Competition Tribunal (ACT)—to take on crucial functions within the new gas access regime.

To this end, this bill amends the Trade Practices Act 1974 (TPA) to explicitly allow the national gas law, when applied as a law of a state or territory, to confer functions, powers and impose duties on these three Commonwealth bodies.

The involvement of these Commonwealth bodies is an essential part of this cooperative scheme, and the Commonwealth must take the lead by legislating to provide for these functions and powers to be exercised. The South Australian parliament, and indeed parliaments in all participating jurisdictions, must see that the Commonwealth is committed to this cooperative scheme.

The AER, the NCC and the ACT will have important roles in overseeing and reviewing the proper operation of this legislative scheme to ensure economically efficient, competitive outcomes in the gas market that protect the long-term interests of gas consumers.

For example, important decisions made under the new gas access regime, including those made under Western Australian law, will be reviewable by the Australian Competition Tribunal. This will achieve greater accountability and consistency in decision making and better protect the interests of both consumers and investors in the gas sector.

This bill has the crucial function of allowing the greenfields pipelines incentives contained in the current gas access regime to continue to operate in the new gas access regime. These incentives were agreed by the Ministerial Council on Energy and allowed to operate by amendments to the TPA under the Energy Legislation Amendment Act 2006, passed in the winter sitting. The greenfields incentives support new investment in pipeline infrastructure within Australia and crossing our territorial waters to other countries, increasing Australia’s energy security and benefiting Australian gas consumers.

Further, by applying the national gas law in Commonwealth law, this bill will help to lessen the regulatory burden on pipeline owners where they are subject to competition in providing natural gas services.

The NGL will also introduce a new light-handed form of regulation that allows pipelines subject to competition to negotiate commercial outcomes with access seekers, without the burden of direct involvement by the regulator. Only where negotiations fail will the Australian Energy Regulator become involved, offering a binding arbitration to resolve the access dispute. This form of regulation allows gas market participants to negotiate economically efficient outcomes, whilst creating a fair and effective access regime.

In summary, the amendments I am introducing today represent a significant legislative step towards a truly national gas access regime under a national regulator and a national rule-making body. This cooperative scheme will ensure that Australia enjoys the benefits of a competitive and efficient gas market, whilst minimising the regulatory burden on industry. This bill has the full support of my state and territory colleagues on the Ministerial Council on Energy. I commend the bill to the House.

Debate (on motion by Mr Crean) adjourned.
ENERGY EFFICIENCY OPPORTUNITIES AMENDMENT BILL 2006

First Reading

Bill and explanatory memorandum presented by Mr Ian Macfarlane.

Bill read a first time.

Second Reading

Mr IAN MACFARLANE (Groom—Minister for Industry, Tourism and Resources) (9.28 am)—I move:

That this bill be now read a second time.

The purpose of the Energy Efficiency Opportunities Amendment Bill 2006 is to make technical amendments to the Energy Efficiency Opportunities Act 2006 to correct a small number of anomalies to properly align the act with the original publicly understood policy intent and to improve its administration.

The bill amends the act, which took effect on 1 July 2006, to clarify that corporations do not need to register if they are already registered; to make clear that the period allowed for program participants to submit their assessment plans and the consequential timing of the five-year assessment cycle starts immediately after the end of the energy-use trigger year; and that, for efficient administration, the secretary’s powers and responsibilities may be delegated to acting Senior Executive Service employees.

These amendments are consistent with the intended obligations explained in the explanatory memorandum to the Energy Efficiency Opportunities Act 2006, set out in the Energy Efficiency Opportunities Regulations 2006 and published in the Energy Efficiency Opportunities Industry Guidelines. They do not represent new policy and do not affect the budgeted cost of the program.

Energy Efficiency Opportunities is a significant achievement flowing from the government’s 2004 energy policy statement, Securing Australia’s energy future. It requires Australia’s largest energy-using businesses to undertake energy efficiency opportunities assessments and publicly report on the outcomes. This applies to an estimated 250 corporations that use more than half a petajoule of energy per year, covering around 40 per cent of Australia’s total energy use.

For the first program cycle, firms that use more than half a petajoule in the 2005-06 financial year of energy per year must register by 31 March 2007 and must complete their first assessment by June 2008 and publicly report by December 2008.

The aim of Energy Efficiency Opportunities is to stimulate the business sector to take a more rigorous and effective approach to energy management, reduce unnecessary demand on energy infrastructure and contribute to reducing greenhouse gas emissions, while improving the competitiveness and productivity of business.

Companies that used over half a petajoule in 2005-06 have until March 2007 to register. By late November 2006, six companies—Alcoa World Alumina Australia, Hanson Australia, New Hope Mining, Queensland Alumina, Rio Tinto Ltd and Leighton Holdings Ltd—have registered for the EEO program, and more are expected to register shortly. These companies, and others who are preparing to apply, are to be commended for their involvement. There is a high level of interest, with many companies already enquiring about registration, assessment and reporting for the program.

The companies who have been trialling the program assessment have found that they have been able to identify between 30 and 50 energy-saving opportunities by following the EEO assessment process. Orica has identified opportunities that could save it up to $1.2 million and reduce greenhouse emis-
sions by 30,000 tonnes per year. Xstrata Copper plans to implement opportunities at one site that will save it an estimated $300,000 per year and is considering opportunities to save an additional $300,000 annually.

I believe that every company that participates will find opportunities that will deliver them cost-effective energy savings and will be able to make very positive changes in how they manage their energy use.

The government is working with industry and other experts to build on the best of what works for business in identifying significant energy savings. The government will continue to work closely with industry leaders to develop guidelines, materials, training and support to undertake effective assessments. Recognising and learning from leading companies and their innovative approaches to identifying and implementing energy savings will be an important strategy for achieving a major shift in Australia’s energy efficiency performance. I commend the bill to the House.

Debate (on motion by Mr Crean) adjourned.

COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT LEGISLATION AMENDMENT BILL 2006

Second Reading

Debate resumed from 28 November, on motion by Ms Julie Bishop:

That this bill be now read a second time,
upon which Ms Macklin moved by way of amendment:

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

(1) refuses the Bill a second reading, because of the Howard Government’s:

(a) continuing arrogant approach imposing a nuclear waste dump on the people of the Northern Territory without proper scientific assessment and consultation processes;

(b) broken election commitments to not locate a waste dump in the Northern Territory;

(c) overriding of many Federal, State and Territory legal protections, rights and safeguards;

(d) destruction of any recourse to procedural fairness provisions for anyone wishing to challenge the Minister’s decision to impose a waste dump on the people of the Northern Territory;

(e) continuing and aggravated disregard of the International Atomic Energy Commission’s recommendations on good social practices like consultation and transparency in relation to nuclear waste;

(f) failure to deliver a national waste repository after ten long years in government, and,

(2) in light of the Howard Government’s imposition of a nuclear waste dump on the Northern Territory community, and the recent High Court decision in the Workchoices case, expresses deep concern that the Howard Government will override community objections and State and Territory laws to impose nuclear reactors and high level nuclear waste dumps on local communities across Australia”.

Ms MACKLIN (Jagajaga) (9.33 am)—Last night I moved a second reading amendment to this legislation, and I will pick up where I left off. The stated purpose of the Commonwealth Radioactive Waste Management Act 2005 was to put beyond doubt the Commonwealth’s power to conduct activities related to siting, constructing and operating a radioactive waste management facility in the Northern Territory. The 2005 act contains a number of provisions excluding procedural fairness in relation to selecting a site for the facility. The Commonwealth Radioactive Waste Management (Related
Amendment) Act 2005 excludes application of judicial review to the minister’s decision on a facility site. Labor opposed the 2005 bills on a number of grounds, all of which remain relevant today.

The government’s acknowledged purpose for these provisions is to prevent local individuals or communities, representative bodies or state or territory governments being able to undertake legal objections to the Commonwealth’s actions which may delay the project. The government stated at the time of parliamentary debate that these provisions give the Commonwealth some certainty, subject to normal regulatory processes, of having a facility operating by 2011 when repatriation of spent fuel reprocessing waste from the United Kingdom is due to commence.

Labor does not oppose the establishment of a nuclear waste facility; indeed, Labor explicitly agrees that there is a need for a properly sited, properly operating facility to securely handle and store the low- and intermediate-level waste produced by the use of radioactive materials for research and for industrial and health and medical purposes. However, we remain firmly of the view that the siting, establishment and operation of such a facility needs to be done in an open and transparent fashion, in full consultation with local communities and with the relevant state and territory governments. Such a process would be in full compliance with the recommended approach set out by the International Atomic Energy Agency.

The Commonwealth has approximately 3,600 cubic metres of low-level waste, half of which is at Woomera, and produces around 30 cubic metres of low-level waste per year. The Commonwealth has approximately 400 cubic metres of intermediate-level waste in Australia and generates less than five cubic metres per year of this type of waste. Intermediate-level waste generated from spent fuel has been sent to France—there is 6½ cubic metres there—and the United Kingdom, where there is 26½ cubic metres.

The waste dump that is being planned by this government is intended to house waste from the new reactor presently under construction; the old reactor, which is still operational, including waste from France and the United Kingdom; Defence waste held at various sites across Australia, including contaminated soil from the Woomera test site; Commonwealth Scientific and Industrial Research Organisation accelerator waste; and other Commonwealth waste. The original 2005 act provides for site assessments of three potential sites on Defence land for that Commonwealth waste dump—these being: Fishers Ridge, near Katherine; Harts Range, approximately 200 kilometres north-east of Alice Springs; and Mount Everard, approximately 42 kilometres north-west of Alice Springs.

Before I turn to the specific provisions of the amendment bill before us, we do need to consider the nature of the amendments to the 2005 bill which were moved on 1 November last year by the government member for Solomon, Mr Tollner, which the government supported into law. You would have to say that these were the 30 pieces of silver that the government threw the member for Solomon to get him to recant his pre-election promise that the Northern Territory would not have a dump foisted on it. The amendments moved by the member for Solomon provided for the Northern Territory Chief Minister and Aboriginal land trusts or land councils to nominate potential sites for the waste dump in addition to the three sites set out in that bill.

Given that the Chief Minister of the Northern Territory has always been, and re-
mains, implacably committed to representing her community's opposition to this waste dump being imposed on the Northern Territory, this amendment moved by the member for Solomon was clearly designed to smooth the way for a nomination by a land council. Given the Central Land Council also remains utterly opposed, that only leaves the Northern Land Council as a possibility. Included in the amendments moved by the member for Solomon was a set of criteria or rules against which such a nomination should be judged, including provisions that the process of nomination by a land council must demonstrate evidence of a number of things—and these matters are very important in relation to today's bill. What the member for Solomon put in his amendments were the following: consultation with traditional owners; that the traditional owners understand the nomination; that they have consented as a group; and that any community or group that may be affected has been consulted and had adequate opportunity to express its view. It is particularly important to recall the rationale the member for Solomon advanced for these amendments, and I quote him:

The main rationale for these amendments is to ensure that, firstly, Territorians do have a say in the siting of the facility—that is, the radioactive waste dump—and, secondly, there is an enhanced level of safety and security enshrined in the legislation. The Northern Territory government and the land councils of the Northern Territory should have an increased opportunity to be involved in the nomination of possible sites for the radioactive waste management facility.

Interestingly, the member for Solomon chose not to inform the House why he chose those particular rules for nominations to be deemed valid.

I now turn to the specific provisions of the amendment bill before us. These provisions all relate, in one way or another, to the nomination process placed in the previous bill by the member for Solomon late last year. Whilst the Minister for Education, Science and Training chose not to reveal an important fact in her second reading speech to the House, the Senate statement of reasons for introduction briefly states the circumstances which have led to the drafting of the bill that is before us, namely:

The bill addresses concerns raised by the Northern Land Council (NLC) in relation to nominating a site under the CRWM Act. If not addressed, the NLC may be unwilling to nominate a site should a community within its jurisdiction wish to volunteer its land.

Whilst my office has inquired of departmental officers as to the nature of these concerns raised by the Northern Land Council, apparently no further information could be made available. Therefore I would certainly like to see a response from the minister when she closes this debate as to the nature of the concerns raised by the Northern Land Council so that the House can decide for itself whether the bill before us properly meets the concerns raised.

The acknowledged purpose of the legal challenge provisions of the 2005 act is to prevent local individuals, communities, representative bodies and state or territory governments from being able to undertake legal objections to the Commonwealth's actions which may delay the project. Due to the late consideration of the Tollner amendments, departmental officers advise that the same protections against legal challenges to the Commonwealth's actions were not applied consistently to the site nomination procedures inserted by the Tollner amendments.

In effect, the provisions of the bill before us today—and this is very important—will extend the current protection from judicial review further to the processes and decision making of land councils in the Northern Territory, who are statutory agencies for the
pursposes of the judicial review act. Similarly, the bill proposes to extend the current provision that no person is entitled to procedural fairness so as to ensure that it applies to a nomination of a site as provided for by the Tollner amendments to the principal act. Labor opposed the corresponding provisions in the 2005 bill on the grounds that they were heavy-handed and attempted to remove—and of course they do now remove—important rights to judicial scrutiny and review from the site decision-making process. Labor will oppose the provisions of the current bill which remove those same rights from the nomination decision-making process.

I now turn to the provisions of the bill relating to the return to the original Indigenous owners of land nominated and used for a radioactive waste facility. Section 119 of the Lands Acquisition Act 1989 allows the Commonwealth to dispose of Commonwealth land. However, the department has advised my office that there is some legal doubt that this power allows the Commonwealth to grant land title with the same status as land granted under the Aboriginal Land Rights (Northern Territory) Act 1976. Accordingly, the government argues that the provisions of this bill are necessary to ensure that, where acquired land is Aboriginal land immediately before the acquisition, such land may be returned with the same status as Aboriginal land.

The department has indicated in briefings that any site will be required for the operations of the waste facility for at least 100 years and, even when waste is no longer being accepted into the site, it will need to be closely monitored for at least a further 200-year period. Therefore, any possible return of Aboriginal land to original owners will not take place for at least 300 years. However, legal advice that I have received indicates that the proposed provision is not legally necessary as the government of the time could simply hand the land over to traditional owners under the provisions of the land rights act if, in fact, it applies at the time.

Under this bill, the government does not have to make any such hand-back. The bill simply provides for a hand-back should the minister of the time determine that it is safe to do so on the advice of the Australian Radiation Protection and Nuclear Safety Agency or its equivalent. We have to ask: why all this fanfare of caring about Indigenous rights, when the government could hand it back anyway at some time in the future? It appears that this bill could be seen as providing some political cover for the Northern Land Council should they make a nomination and subsequently face criticism for giving away hard-won ownership of traditional lands for three centuries or more.

Now let us have a look at the clauses of the bill which address the issue of potential invalid nominations made under the provisions inserted in the principal act by the member for Solomon, which I will call the ‘Tollner amendments’. There are two ways any nomination of land for a radioactive waste dump could be made invalid: procedural inadequacies or, a more substantive issue, a failure to comply with the rules of nomination so carefully inserted by the member for Solomon.

Given that a procedural inadequacy, such as not lodging a nomination in writing, is extremely unlikely, we conclude that the only likely noncompliance by any future nomination relates to the nomination rules. In other words, this bill proposes to validate a nomination which would otherwise be automatically ruled invalid for ministerial consideration because, for instance, traditional owners have not been informed of the nomination, or that traditional owners did not
properly understand that their land was being nominated, or that traditional owners had not consented to the nomination, or that other affected communities or groups, such as in neighbouring lands, had not been consulted or given an opportunity to express their views.

The bill before us proposes a new section which provides that a failure to abide by these currently binding rules of nomination will not affect the validity of a nomination. In effect, these current statutory rules would become mere guidance, because a failure of the minister or land council to abide by these rules will not render a nomination unacceptable. A site could still be nominated and accepted even though traditional owners do not know it has been or do not agree with it being used to dump radioactive waste.

In addition, it is also important to recognise that this provision would remove the current statutory right of ‘affected’ neighbouring communities or groups to even be consulted or to express their view. Given that under the Tollner amendments to the act these groups are not required to consent to the proposed nomination, the provision aims squarely at their statutory right to even express a view.

As well as being an almighty slap in the face for the member for Solomon through this outright repudiation of his rules of nomination, the Howard government has also completely backtracked on its own rhetoric about fully consulting with and achieving informed consent from all affected local communities and groups, in particular the Indigenous traditional owners of any nominated sites. The provisions of the bill in this regard are a direct contradiction of the minister’s own commitments to the parliament in her second reading speech on this bill, when she stated:

Current provisions of the act set down a number of criteria that should be met if a land council decides to make a nomination. Importantly, these criteria include that the owners of the land in question have understood the proposal and have consented to the nomination, and that other Aboriginal communities with an interest in the land have also been consulted.

I can assure the House that, should a nomination be made, I will only accept it if satisfied that these criteria have been met.

You would have to say, when you look at the detail of the bill, that the minister’s words in her second reading speech are just that—words. This minister knows very well that her speech will have legal weight only if a court is unsure of the parliament’s intent on the face of legislation. The minister knows that the proposed words of this bill are crystal clear—any nomination which does not comply with the nomination rules requiring full and informed consent will still be rendered invalid.

Faced with the clear intent and outcomes of the bill before us, the minister’s contradictory commitment in her speech is simply meaningless rhetoric, providing no comfort whatsoever to any traditional owner or their representatives. Importantly, the outcome of the proposals contained in this bill is also in conflict with the NLC full council resolution of October 2005, which provided a mandate for the Northern Land Council’s further dialogue with the government on a possible nomination, and I quote:

The Northern Land Council supports an amendment to the Commonwealth Radioactive Waste Management Bill 2005 to enable a Land Council to nominate a site in the Northern Territory as a radioactive waste facility, provided that:

- the traditional owners of the site agree;
- sacred sites and heritage are protected (including under current Commonwealth and NT legislation);
environment protection requirements are met (including under current Commonwealth and NT legislation);

Aboriginal land is not acquired or native title extinguished (unless with traditional owners’ consent).

Given the clear intent of this resolution, there is a serious question to be asked here: has the Northern Land Council approved the proposal to remove the mandatory nomination rules which closely parallel their own requirements? In effect, the current bill proposes to relegate both the Northern Land Council’s resolution and the nomination rules inserted by the government’s own MP for Solomon into irrelevance and will be opposed by Labor as an important matter of principle.

In addition to the three potential sites included in the 2005 act, departmental officers have confirmed in the recent round of Senate estimates hearings that they have been discussing possible further nominations with the Northern Land Council. Officers have also assured my office that there has been no further definite nomination to date. They have also advised that the details of those discussions are confidential at this stage but, once again, the minister may see fit to inform the House if this continues to be the case when she closes the debate.

However, I am aware that there are a number of possible sites under consideration for nomination, one of which is a property known as Muckatty Station. I am aware of this possibility because I have spoken to traditional owners and families from the property and surrounding areas who came to see me about the possible nomination of their lands for use as a nuclear waste dump. These traditional owners oppose the nomination of Muckatty. The women who came to see me expressed their considerable concern, indeed their distress, at this prospect. They told me they feel that their rights, their views, their concerns and their lands are being trampled upon by this government.

The bill under consideration by the House today will magnify that distress because it openly and harshly rips away the legal requirement that any nomination of Indigenous land for a nuclear waste dump must have the full and informed consent of the traditional owners of that land. In addition, if Muckatty does indeed turn out to be nominated, it may also highlight the removal of rights of affected neighbouring groups to be consulted and to have their views taken into account.

Muckatty is situated right on the border of Northern Land Council and Central Land Council lands, and the Central Land Council remains implacably opposed to the use of Indigenous land for the dumping of radioactive waste.

We need to be very clear about this: under this bill before us today there will be no enforceable rights of the traditional owners or affected persons to be informed—to ensure that implications of a radioactive waste dump are fully understood—or to give or withhold consent for their traditional lands to be compulsorily acquired and used for the handling and storage of radioactive waste for at least 300 years. And if that is not enough, there will be no enforceable right to receive their land back once the Commonwealth’s use as a waste dump has concluded; the bill simply provides that it may be handed back.

All traditional owners, all their representative groups and all Northern Territorians should understand this point: the Howard government is intent on making sure that you have no rights, no legal review avenues, no right to express your view and no right to give informed consent and absolutely no say in this government’s blind pursuit of dumping nuclear waste in the Territory.

The government’s history in relation to the nuclear waste facility in the Northern Terri-
tory gives us a very real indication of how they propose to move on nuclear issues writ large, in taking Australia much further down the nuclear road with 25 nuclear power stations now proposed by Mr Howard’s nuclear inquiry—and, of course, there will be associated radioactive waste dumps. If the Howard government cannot consult, cannot build community consensus, cannot leave important legal rights untrampled, cannot gain the informed consent of Indigenous people for a low- and medium-level nuclear waste facility, what hope can we have that they will comply with International Atomic Energy Agency best practice guidelines in relation to nuclear power and the resulting radioactive waste? I know that many of my colleagues are keen to explore these matters further and in much greater detail than I have time for today. For all the reasons I have set out, Labor will not support this bill and I urge the House to support the amendment I have moved.

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

Mr Crean—I second the amendment.

Dr JENSEN (Tangney) (9.58 am)—The purpose of the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 is to enable the return of a volunteer site to its traditional owners once the site is no longer required by the facility, should such a site be used for the Commonwealth radioactive waste management facility. Currently, the act allows for the Commonwealth to acquire all rights and interests in the volunteer site but there is no mechanism for the return of those rights to the traditional owners. The federal government, therefore, would not be able to return such a site to its traditional owners under the current legislation. In the extremely unlikely event that contamination occurs as a result of the use of the land, the traditional owners will be indemnified by the Commonwealth against any resulting claims. However, I do not believe that this risk is high at all.

Over the years I have taken a very keen interest in developments in waste-handling measures by Australian scientists. Unfortunately, all too often the terms ‘radioactive waste’ or ‘nuclear waste’ are used to cause fear in the community. Indeed, in my state of Western Australia it is spruiked by the state Labor government whenever they are experiencing difficulties, particularly with hapless ministers. Shortly after Minister Norm Marlborough was required to resign from parliament over his evidence before the Corruption and Crime Commission of Western Australia last month, there was a flurry of press releases claiming uranium mining and nuclear reactors in metropolitan areas and that nuclear waste dumps were being foisted on the community. It is an issue of: ‘Whoops! We’ve got a problem with one of our ministers, what do we do? Aha! Let’s look for an issue. Nuclear—good word! Nuclear waste.’ After the failed bid in the High Court, the Western Australian public was once again browbeaten by Premier Alan Carpenter on the radio on 14 November. He said:

It opens up the possibility that the Commonwealth Government, the John Howard Government, could legislate to force WA to accept nuclear waste, for example. No matter what West Australians think about the issue, it is extremely, extremely critical now.

Problem? Transfer. This is clearly irresponsible government. It has all the hallmarks of a premier in trouble: ‘Look over there! Look anywhere but at my cabinet and my administration.’ I believe that Western Australia should have a role and responsibility to look after its own nuclear waste. Each year thousands of people receive the benefit of nuclear medicine. Nuclear waste is generated every time a specialist refers someone to a hospital and that person undergoes medical treat-
ments that use nuclear technology. These life-saving technologies are also developed by ANSTO at Lucas Heights. We are all able to access the benefits of nuclear medicine in hospitals in WA, but we take none of the responsibility for the disposal of the waste. The argument by Western Australia’s Minister for the Environment, Mr McGowan, is that ‘any waste produced by Lucas Heights or any other nuclear fuel production facility should be dealt with by those facilities.’

In 2004 then Premier Gallop stated, ‘WA does generate some radioactive waste from medical and industrial uses and, to a smaller extent, from research.’ The Radiation Safety Act 1975 requires the owner of any premises that use or store radioactive substances to register both the premises and the radioactive substances. In Western Australia there are just over 300 registrations for premises that have radioactive substances. Many of these registrations contain more than one radioactive source or substance for which disposal must be undertaken in accordance with the act. Clearly, around 300 sites in Western Australia alone is not an efficient solution. One wonders what must be the number of sites registered across the country. It would be far more sensible to have one major repository to deal with this waste.

The federal government has never ducked its responsibility to ensure the safe handling of radioactive waste; indeed, it takes responsibility for proper storage and handling of the waste. I am very much a believer in a federal system and in a shared responsibility between federal and state governments. But even more so I believe in a nation called Australia and in responsibility for matters of national concern being handled by the national government. The placement of nuclear waste is a matter beyond the concerns of states alone. It is a national concern, and a matter that clearly should be dealt with by the federal parliament. This is not a matter for parochial ‘nimbyness’. The ‘not in my backyard’ mentality exists all too freely. Instead of scaring the constituency with threats of nuclear waste dumps, we should start acting responsibly. It is time to take off the blinkers and look to the exciting technologies and advances that fellow Australians are making in respect of nuclear waste.

One such person, who should have been applauded for his invention, is the late Professor Ted Ringwood, from the Australian National University. In 1978 he invented synroc, a material that allows the storage of high-grade radioactive waste for geological time periods. Over the years, ANSTO has developed different forms of synroc for a wide range of radioactive wastes. ANSTO has constructed a mini synroc plant to demonstrate the manufacture of a non-radioactive synroc plant at Lucas Heights. It also safely immobilises waste arising from medical isotope production. Tailored synroc waste forms have been developed to target problematic Cold War legacy waste streams that are difficult to incorporate in glass.

The US Department of Energy chose synroc for the plutonium immobilisation program in the late 1990s. ANSTO has established the synrocANSTO business team to oversee the commercialisation of this technology. They are working with Nexia Solutions in Britain to design a plant to immobilise five tonnes of plutonium residue waste from the British Nuclear Fuels Ltd Sellafield site. This technology is also applicable to other legacy plutonium and actinide waste streams around the world. However, in the Australian context, if nuclear energy were required, it would be unlikely that synroc would be needed to store it for very long time periods, because there are fourth generation reactor designs that burn most of their own waste.
These designs are very interesting in that they not only have significantly reduced waste life—because they burn their own waste, the waste forms are only harmful for a period of 200 to 300 years—but also use significantly less fuel because they use up the fuel far more efficiently than conventional reactors. In fact, you would be looking at a waste volume and a use volume of uranium of about one-sixtieth that of current nuclear reactors. These technologies obviously are extremely interesting and exciting for the Australian context, looking potentially at the time frame that we would be looking at.

As I mentioned, the waste from these reactors that burn their own waste is only harmful for a period of 200 to 300 years. This might seem a long time to some, but think of some other industrial wastes that we generate—such as lead, arsenic, cadmium et cetera—that have infinite half-lives and so are harmful in the environment for an indefinite period. They do not decay; they are there forever. This is an interesting thing about radioactivity. The issue of long radioactive half-lives is often touted by the antinuclear groups as being extremely problematic—and indeed it is problematic. However, what needs to be realised is that the radioactivity of a substance is inversely proportional to its half-life. So something that has a very short half-life is very radioactive, and this can cause damage very quickly, whereas something with a very long half-life is not very radioactive at all. It is like a slow-burning wood heater. Indeed, I have already pointed to substances that have infinite half-lives. They are still radioactive; they just have infinitely long half-lives.

The community is interested in the changes to technologies in both reactors and waste handling. We should be proud of our internationally recognised achievements in waste management. If Australian ability in this area were better understood, the fear campaigns that are often waged by underperformers or people concerned with any sort of change would lose their effectiveness.

I have previously encouraged members of this House to take the opportunity to visit ANSTO and speak to Dr Ian Smith, the head of ANSTO, and his colleagues. It appears that some opposite wish to remain in a state of ignorance, because the take-up on this has been extremely low. It would appear that people think: ‘By remaining ignorant, I can in good faith perpetuate the untruths that I tell on this issue in the community.’ I want to re-encourage members, as I have said, to investigate and discover for themselves the exciting technologies that are significantly contributing to the global solutions on nuclear waste.

Mr SNOWDON (Lingiari) (10.10 am)—I thought my colleague the member for Taney might have taken a bit more time since this topic is of such great interest to him and he is a person who has some expertise. The Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 is extremely important for all of us to contemplate, for a whole range of reasons, not the least of which is the impact that it will have on the rights and interests of Aboriginal people who are traditional owners of land in the Northern Territory.

On Monday of this week, I was privileged to be at Gan Gan, a small community in the north-east of Arnhem Land. At Gan Gan there was a ceremony which had lasted some four or five days. It was attended by around 800 people, Aboriginal Territorians from as far south as Ngukurr and Numbulwar and from Galiwinku and the coastal communities to the north of Gan Gan as well as the other communities of north-east Arnhem Land, including Yirrkala. These ceremonies are very important indeed. This particular set of ceremonies is important because they are...
about the transmission of knowledge, the passing on of sacred knowledge to do with the land and Aboriginal people’s responsibilities to it. This was the passing on of the knowledge of an old, very distinguished man in a wheelchair, Gawarrin Gumana.

This is important in order to put the discussion that we have been having this morning and will continue to have later into some sort of context, a different context to the one which is being embarked upon by the government but one which underlines the very importance of appreciating, understanding and coming to terms with Aboriginal traditional law. It underlines the importance of understanding the obligations that Aboriginal people have under that law—in this case, in the Northern Territory—and what those obligations mean in relation to the land that they are the custodians of and for which they have responsibility, for which they hold the stories and the ceremony. That is the sort of knowledge which was passed on earlier this week in the ceremonies by Gawarrin Gumana to people who are to follow him.

Another ceremony took place on Monday which again emphasised the nature of relationships, the nature and importance of land and what has happened to this place in terms of land. At this ceremony a memorial was unveiled to commemorate a massacre that took place at the waterhole at Gan Gan in 1911. This massacre does not feature in Keith Windschuttle’s story of Australia. Indeed, it does not feature in many written authorities on the story of Australia. An expedition led by non-Aboriginal people came to this place. We do not know exactly for what purpose, but we suspect it was to look for a geologist who had gone missing while exploring for minerals in north-east Arnhem Land. The supposition was that he had been killed by Aboriginal people in north-east Arnhem Land. So this was a reprisal and it saw the massacre of a large number of people at Gan Gan. The result was that six people were killed. Their names are identified on the plaque because of the genealogies that exist—people know who the people were. There were survivors. One of them dived into the billabong and was able to retell the story to the following generations. That person was able to tell the people who followed him the story about the land and, in this case, about the Manatja clan. They had responsibilities for land in that country, but they have become all but extinct as a result of this massacre.

The reason this is important is that it provides some insight into the way in which Indigenous Australians—in this case those living in the Northern Territory—see their responsibility towards one another and as part of a community. They have obligations to the country which they have custodianship of and which they do not want to leave. This was picked up in the considerations of Justice Woodward, who was commissioned by the Whitlam government to look at land rights in the Northern Territory. He looked at all of the issues around the question of land rights and land tenure. He came to understand the importance of the relationships between the people, between the people and the land and between the people and all the things on the land—whether they were trees, rocks, birds, crocodiles or whatever. The relationship that exists between people and land was understood. It is in the stories; it is in the ceremony. It demonstrates very clearly people’s title to the country.

So it was no surprise that Justice Woodward said that land title should be given to Indigenous Australians, in this case in the Northern Territory, and that it should be inalienable, freehold title—a communal title which could not be easily taken away. If the Commonwealth were to acquire compulsorily any of the land after this new form of Aboriginal title were introduced, it should
only take place with the consent of the regional land council or by the authority of a special proclamation tabled in the parliament and subject to disallowance by the regional land councils. That is not exactly reflected in the land rights act, but what we are seeing today is a none too subtle attempt by this government to undermine the very principles of the land rights act and the things that are seen as so important by the Gawarrin Gurmana and other people of north-east Arnhem Land as well as by people living elsewhere in the Northern Territory. What is important to them is their relationship to country, their responsibilities to country, their ability to speak for country and their knowledge of country. But, as I said, we are now seeing a none too subtle attempt by the government to undermine those relationships.

We know that the land rights bill subsequently passed by the Fraser government was a very enlightened piece of legislation. It placed great responsibility upon land councils as representatives of the traditional owners in how they deal with land or with any proposals to develop land. We know that in terms of country, the land councils have a set of specific requirements on consultations with traditional owners and any developments of their land. The land councils must consult with traditional owners; they must have regard to the interests of traditional owners; they must not take action without the consent of traditional owners; they must ensure that traditional owners understand any proposal; they must ensure that affected Aboriginal communities have expressed their views; and they must comply with the decision-making processes of the traditional owners. It is a very strong obligation upon the land councils.

This obligation was in part reflected in amendments to previous legislation. In dealing with the potential for Aboriginal land to be used as a waste site, obligations exist under the land rights act for parties to consult with traditional owners and to act on the basis of informed consent in any decision making that takes place. Nominations, including provisions on the process of nomination by a land council, must demonstrate evidence of consultation with traditional owners, that traditional owners understand the nomination, that they have consented as a group, that any community or group that may be affected has been consulted and that it has had adequate opportunity to express its views.

I would say, and I think most people would say, that is a fair representation of the obligations that land councils have to represent properly the views of traditional owners and to reinforce those relationships that were being expressed in the form of a ceremony at GanGan earlier in the week. Now we know that the legislation we are discussing this morning would relegate these protections to mere guidelines, because item 4 of this legislation would make them unnecessary.

The Bills Digest is very instructive. It goes through the items seriatim and states:

Item 3 inserts proposed sub-section 2A which negates the legal significance of Section 3B by stipulating that failure to comply with these rules—

that is, the ones I have just referred to—

has no legal effect—i.e. a nomination will still be valid.

We know that the impact of this amendment would effectively be to render the requirements in the original piece of legislation non-binding recommendations whose breach would have no legal effect. The concluding comments of the Bills Digest quote the second reading speech of the Minister for Education, Science and Training, in which she said:
I can assure the House that, should a nomination be made, I will only accept it if satisfied that these criteria have been met.

The Bills Digest says:

... [i.e. the criteria governing consultations and information that must be provided to and about traditional owners before a nomination is made].

This legislation provides unambiguously, as we are informed, that there is no binding legal need to ensure the criteria have been met. So it is a con. It is a very sneaky way of undermining the very foundations of the Aboriginal Land Rights (Northern Territory) Act, because what is also anticipated in this legislation is that the Commonwealth will have ownership of the land. It will not be leased to them but, somehow or other, they will get access to that country either by compulsory acquisition or by some agreement.

We now know, because there is no binding effect on the need for consultation, that the land councils will not be required to do the consultation which they would normally do. If they do not, and they nominate land or provide some agreement to the Commonwealth about a piece of land, because any procedural rights that might otherwise have existed have been removed by this piece of legislation and because the decisions will not be appealable a deal could be done whereby the Commonwealth could take a parcel of land, like the land that Gawarrin Gumana was passing on ceremony for, and almost by fiat determine that it would be a site for a nuclear waste facility, knowing that there would be no legal challenge against it. They could say that they were going to take the land, remove the inalienable freehold title, make it a Commonwealth title for the purposes of this facility and, at the end of 200 or 300 years, have no obligation to hand it back.

I do not believe that anyone has been fooled by the intent of this legislation and the amendments before us today. They are a con. They are a very cynical attempt to undermine the rights that Aboriginal people currently have to due process in consideration of developments on their country. This bill finishes off the job that was started with the Commonwealth Radioactive Waste Management Amendment Act 2005. As we know, it had already blocked some avenues of legal challenge to site selection by giving the minister absolute discretion to choose any site—removing any entitlement to procedural fairness, removing the need to comply with procedure, preventing the application of the Administrative Decisions (Judicial Review) Act 1977 and, in relation to the site’s nomination, giving to the minister absolute discretion to approve a nomination. This bill further prevents the application of the AD(JR) Act, it removes any entitlement to procedural fairness and it removes the need to comply with the procedures previously set down.

We know that, despite this, Aboriginal people certainly expect their views to be properly heard and understood. We know that the Central Land Council have undertaken their obligations seriously. They know that their obligations for consultation under sections 23 and 77A of the Aboriginal Land Rights (Northern Territory) Act and sections 203BC and 251B of the Native Title Act require them to undertake certain procedures, which we now know will not be necessary down the track if someone chooses not to follow them in relation to a site proposal. But they have followed them. They have had a large number of meetings with traditional owners of the two sites in Central Australia that have been earmarked, Hart’s Range and Mount Everard. Between 16 August 2005 and 9 November 2006 they have had 13 meetings, 11 of them with traditional owners of the proposed sites. There has been appropriate consultation. These meetings have facilitated representations by ANSTO and DEST officials and exhibited test maps and
schematic posters. DEST officials were invited to further discuss the issues and update TOs. The meetings have explained the legislative processes and the proposed laws, provided information in translated audio and video format as well as in newsletters, complied with traditional decision-making processes and spoken up for the interests of TOs at their request.

And what is the government’s record? As with the 2005 amendment bill, the government simply introduced this amendment bill in this House, with no warning, a month ago, without so much as a by-your-leave or an attempt to discuss it with the people who it will affect. And, as we know, of the 13 meetings organised by the Central Land Council, only one was attended by DEST and ANSTO officials. DEST was invited to attend a meeting on 7 November at Alice Springs and another on 9 November at Mulga Bore, to the north of Alice Springs, and chose not to attend.

This is a very serious piece of legislation. As I have said, I think it is a very cynical attempt to undermine the rights of traditional owners in the Northern Territory and to continue the process of imposing upon the people of the Northern Territory, Indigenous and non-Indigenous, a nuclear waste facility that may, at some time in the future, house the waste of 25 nuclear plants—because that is what the government will have the power to do.

This is a shameful piece of legislation which should be rejected, and I urge members to support the amendments moved by the member for Jagajaga. (Time expired)

Mr TUCKEY (O’Connor) (10.30 am)—
This bill, the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006, is a small piece of legislation designed specifically to address an issue that was not adequately resolved on the introduction of the Commonwealth radioactive waste management legislation of 2005.

If you are not too busy, Mr Deputy Speaker Lindsay, I might later make some remarks about tidal power in which you may be interested.

This is a simple piece of legislation. It addresses the opportunity for the Commonwealth, having acquired the land for this waste facility in the Northern Territory, to return that land to the traditional owners if it finds that the land is excess to its needs or if the land is no longer required because of a change of policy.

The member for Lingiari was at pains to stress the rights of the Aboriginal landowners to speak for country, and I would certainly endorse their right to speak for country. He makes constant reference to a land council. But my observation of the process is that it does not address that right.

The land entitlements of various tribal groups were minuscule compared to the coverage granted to land councils. A land council is a sort of cooperative and a bureaucracy that has taken upon itself the right to speak for individual native title traditional owners.

Might I quote to you, Mr Deputy Speaker, the experience I had as a minister when I thought it was appropriate to clean up an embarrassing slum in Canberra, outside Old Parliament House, which some people—campers, if you like; and I am surprised that a few Australian pensioners have not thought it appropriate that they turn up and park their caravan there on some similar grounds—had set up. When I set out to clean that up and replace it with an appropriate interpretative centre, to recognise the original tent embassy—which, by the way, happened to be a beach umbrella, but it caught the popular imagination of Australians—I had a very interesting experience. I thought it quite appropriate to consult sincerely with the tradi-
tional owners, the Ngunnawal people. But it became obvious to them that most of the inhabitants of this so-called ‘embassy’ were not traditional landowners—they did not even come from the region! They took some exception to this, once it was obvious to them, and went down and told these people to leave and started to pull down their tents and the other things that they had constructed there. And those people went off to the whitefella court—the Supreme Court of the ACT—for protection from the traditional landowners who did not want them there. This is how farcical certain aspects of so-called land rights can be.

And for the member for Lingiari, as he traditionally does, to stand up in this place defending the rights of a bureaucracy, in terms of what might be best for the traditional landowner, is, I think, just typical of a Labor Party bureaucratic approach. Consequently, I reject the amendments that he and others have promoted on this.

I find it quite amazing that we have (a) to (f)—in fact, we have two paragraphs of amendments, which of course in the first place state that the bill not be given a second reading. But when we get down to 1(f), they criticise the government’s failure to deliver a national waste repository after 10 long years in government. And they have spent the bulk of this debate saying why it should not be in the Northern Territory!

Yet, of course, it is in the Northern Territory because when the residents of the Northern Territory were given the opportunity to become a state and have some constitutional rights in regard to the land under their administration, the people of the Northern Territory voted against it. So I think there are a few realistic matters that have come forward. But the reason that this is in the Northern Territory is that, by the decision of the local people, it is still a territory answerable to the Commonwealth. And it is also, of course, appropriate, in many ways, from a geographical, a geological, perspective.

It is interesting to look at the second reading speech of the Minister for Education, Science and Training. In that speech we are told that, through this bill, the Australian government seeks to ensure, should a volunteer site be selected for the facility, that there is a mechanism for the land to be returned to its original owners or successors when the site is no longer required. We will not be returning a dirty or polluted site.

The bill provides that the return may not be effected unless the independent regulator, the Australian Radiation Protection and Nuclear Safety Agency—highly regarded, I might add—has released the facility from regulatory control. Further, the traditional owners must consent to the return of the site. However, in the extremely unlikely event that contamination occurs as the result of the use of the land for the facility, the traditional owners will be indemnified by the Commonwealth against any resultant claims. A related purpose of this bill is to amend both this act and the Administrative Decisions (Judicial Review) Act 1977 to prevent politically motivated challenges to a land council nomination. What could be more sensible than that?

If we ever have a nuclear power industry and a uranium enrichment facility in Australia, we must have a safe and properly controlled nuclear waste management facility. I find it remarkable that people get all frantic about this when the prime purpose of the Lucas Heights facility is to produce radioactive isotopes for the purpose of human medicine. As is well known, those isotopes are injected into the human body by a doctor using a syringe of some description, some rubber gloves and maybe some other robes. These items could be ‘contaminated’ by that
process. Each of these items becomes low-level nuclear waste.

State premiers who say ‘No nuclear waste in my time’ approve the storage of such products in the basements of their hospitals. Admittedly, the only protection needed between these items and other human beings is a sheet of cardboard, but surely such waste, if it is declared to be low-level nuclear waste, should have an adequate repository.

There is now almost total acceptance that sending Aboriginal people out onto some of their traditional lands with no commercial or other opportunities has been a disaster. A nuclear waste management facility would bring a lot of commercial activity in which I hope these people would be able to find employment. It would clearly bring better roads and many other facilities for which, I think, they would be grateful.

This legislation refers to nuclear waste. The member for Lingiari was at pains to point out that the potential exists to have 25 nuclear power stations in Australia and, in that regard, a waste repository would be required. This gives me the opportunity to speak for some time on that situation. I am neither frightened of nor concerned about a nuclear power industry. In fact, I have advocated for the storage of international nuclear waste in Australia, particularly the waste from yellowcake, or uranium oxide, exported from Australia. It is my view that, whatever the economics of it, it should be enriched in Australia, leased to users and returned to Australia—if only to guarantee that the cycle is complete and that Australia, as a contributor to the nuclear non-proliferation treaty, is able to guarantee the safe and secure storage of that waste. I have often said that I would much prefer to have the waste returned in the appropriate container than at the head of a rocket. Therefore, I think it is appropriate that Australia have a facility and a commitment to that approach.

However, considering the greenhouse emissions debate, the economics and the arguments for a reliable and consistent form of renewable energy—remembering that nuclear electricity generation does not create any greenhouse effect—I would prefer that my government, and maybe this parliament, look at a better option. This is not the first time I have drawn the attention of the parliament to the huge, reliable, predictable and renewable resource of the tides of the Kimberley. I have recently been advised that there is an opportunity for an electricity generating facility at Walcott Inlet. This is a 50- to 60-kilometre inlet which twice a day experiences mean tides of 11 metres. It is 50 metres wide where the water rushes in and out and it has the capacity to produce 2.8 gigawatts of electricity—arguably, 2½ nuclear power stations. And that is a drop in the ocean. If you take my index finger as a representation of the energy capacity of the tides of the Kimberley—

Mr Albanese—Is that parliamentary?

Mr TUCKEY—I thought the member for Grayndler might be interested in this example; he might want to include it in his policy instead of being totally negative. If you take my index finger as a representation of the generating capacity of the tides of the Kimberley, the generating capacity of the Snowy River scheme would be the thickness of my fingernail. This is a good way, in a visual context, to make that comparison—and I was not sending a sign to the member who interjected! But I hope he listens closely, because, as I have said in this place before, if the Labor Party wants to do something positive after 10 years in opposition, it might want to steal my ideas.

We have wind power, which is so variable. New Zealand is experiencing variations
over five minutes of 100 megawatts, which means that somewhere you have to keep burning coal in anticipation of that variation. The sun is quite helpful in a way, provided you do not need to turn the lights on at night time. We have hot rocks energy, which may have some potential as, more particularly, it is compliant with a grid; you can turn it up or down.

You can predict the tides of the world for 100 years. If you were proposing to have tidal generation power without the available adjustments that you can achieve through the pump storage of water during high-tide flows, you could back it up with coal, because it is predictable: you know that at a certain time on a certain day you would need the generating capacity of a coal-fired power station to replace the power that was not available from the tides because they were neap or whatever else.

On clean-coal technology, I might add that the best that the CSIRO can offer us to date is that a power station requires 20 per cent of its energy production to be used to actually clean up its own mess. That means that somewhere else you have to burn 20 per cent more coal. That does not seem to me to be a high-priority option. I would say the same about nuclear power whilst, as I said earlier, I am neither frightened by it nor opposed to it.

The problem with Kimberley tidal power has been that there has not been a customer as the site is too far away. As we all know, technology in Australia changes every day, and a very significant customer is now in the immediate vicinity of the Kimberley tides. It is the liquefied natural gas industry. For every million tonnes of liquefied natural gas exported out of Australia, we burn 100,000 tonnes, or 10 per cent, of that gas resource. What is more, there is an emission problem associated with that. When we burn the gas as a gas, we pay little attention to the amount of natural carbon dioxide that is found within that gas. The big problem for Gorgon is that it is up to 14 per cent, and the government is negotiating with them to attempt geosequestration, which is significantly easier to do in a liquefied natural gas process than in taking it out of the very hot chimney stack of a power station.

So there is a customer for tidal power. The Browse field, yet to be developed by Woodside, requires 900 megawatts of electricity generation. That is the output of a very big suburban power station. I doubt we have got many of that size in Australia. That field is one of many; Gorgon has not started yet. In other words, we could meet those gigawatts of demand in the immediate vicinity by developing the tidal resources of the Kimberley—totally renewable, perpetual and predictable.

But now it so happens that Australia has walked into the high-voltage DC transmission industry. We have a very credible facility called Basslink. We have crossed Bass Strait with a power line that obviously could not have transformers and all the usual things by which we pump electricity along wires. It is based on HVDC technology. It is two-way traffic—and very sensibly so. Instead of wasting the hydro resources of Tasmania on baseload, they are now consuming baseload from coal, topping up Victoria’s and their own grid with hydro.

America’s HVDC transmission capacity is such that it is now transporting electricity over 2,000 miles, or 3½ thousand kilometres. The other day I got out an old Main Roads map that I had when I was a truckie and that tells me distances around Australia, particularly distances around the state of Western Australia. I was surprised when I suddenly found that Perth is only about 2,300—don’t hold me to the exact number—kilometres
away from Derby, the centre of this tidal power region. We could transmit that power all the way to Perth and the south-west. It is not that much further to Port Augusta, where there is a substantial power station and, to the best of my knowledge, an interconnection throughout the eastern seaboard. In other words—for the information of the Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, who is sitting at the table—we could give some tidal power to Melbourne and we could balance that against the emissions from their brown coal. Instead of wasting 20 per cent on trying to clean the coal, we balance it with probably 40 per cent renewable power that creates no emissions. Of course, you can also go across Australia and hook up to the coal-fired power stations and resources of Queensland. Then, as you do with Basslink, you go back and forth: from the coal to the liquefied natural gas when that is needed and to tidal power for the major cities of Australia when it goes the other way. In my closing remarks, I am asking the opposition to come with me and ask the Prime Minister for another Switkowski inquiry into the potential of tidal power generation. I do not see why it should be left out.

Yet the government is clouded by its ideological approach when it comes to nuclear issues. It is clouded by the fact that it is stuck in the last century and it is unable to embrace the change that we need if we are going to address climate change by adopting this century’s technology and by moving forward into the future not only in our interests, the interests of the environment and the economy but also in the interests of future generations.

When the government introduced the original Commonwealth Radioactive Waste Management Bill last year I described it as one of the most draconian pieces of legislation that has been brought before this chamber. I underestimated how extreme the Howard government could be. Since then the government has announced its plans to build 25 nuclear reactors across Australia and has introduced this extreme bill. The Commonwealth Radioactive Waste Management Act 2005, which this bill amends, was rammed through both houses of parliament. It is an extreme piece of legislation. It imposes a toxic nuclear waste dump on the people of the Northern Territory and it overrides the Howard government’s own environment and heritage protection laws. It overrides the Native Title Act and the Lands Acquisition Act. It removes procedural fairness. It allows the Commonwealth government to do whatever it deems necessary to establish or operate a nuclear waste dump and whatever it pleases...
to ensure the nuclear waste gets transported to the nuclear waste site. In other words, the act brushes aside critical environmental protection, community safety and Aboriginal rights laws to ensure that Territorians get dumped with a toxic nuclear waste dump.

Having enjoyed the taste of extreme laws, the Howard government has gone a step further with this bill. It has gone further down the extreme road by introducing these changes. The Commonwealth Radioactive Waste Management Legislation Bill 2006 goes a step further by introducing three additional measures. Firstly, it removes the right to appeal the nomination of nuclear waste dump sites through the courts. Secondly, it provides that failure to comply with the site nomination rules in the act will not affect the validity of the minister’s approval of a nomination. Thirdly, it removes any entitlement to procedural fairness in relation to nomination of a site.

Before outlining Labor’s concerns about these measures I remind the House of the Howard government’s track record of broken promises and extreme behaviour when it comes to nuclear waste dumps. Australia should remember this track record when they consider John Howard’s determination to impose 25 nuclear reactors across Australia. For years the Howard government tried to impose a nuclear waste dump on South Australians. This was opposed by the South Australian government and the South Australian public. A poll in the Adelaide Advertiser of 2003 showed 87 per cent of South Australians opposed a nuclear waste dump in their state. Nevertheless, the Howard government wasted more than $17.5 million, including an extraordinary $620,000 on public relations consultants, trying to impose the dump on South Australians. In the end, the Howard government gave up on that exercise. Why? Because the polls showed the government would lose seats in South Australia. That is why the government turned its attention to the Northern Territory. Just prior to the federal election the Minister for the Environment and Heritage ruled out the Northern Territory as a site for a nuclear waste dump. He said:

The Commonwealth is not pursuing any options anywhere on the mainland, so we can be quite categorical about that, because the Northern Territory is on the mainland.

A promise from the minister has as much credibility as an AWB executive appearing before the Cole inquiry or as much credibility as the member for Solomon who, in June 2005, infamously said:

There’s not going to be a national nuclear waste dump in the Northern Territory... That was the commitment undertaken in the lead-up to the federal election and I haven’t heard anything apart from that view expressed since that election.

The member for Solomon must not listen to his caucus colleagues in the government. Broken promise after broken promise has occurred from a government which now wants to impose 25 nuclear reactors on Australians at unspecified locations. The Commonwealth Radioactive Waste Management Act 2005 gave effect to that broken promise, forcing a nuclear waste dump on the people of the Northern Territory. It should be remembered that the current dump sites in the Northern Territory were not chosen on the basis of any objective scientific criteria.

As the Australian Conservation Foundation has pointed out, none of the sites under consideration were shortlisted when scientific and environmental criteria were used to assess alternative sites around Australia in the 1990s. This is a government that ignores science, ignores economics, ignores the environment and listens only to pollsters.

The Commonwealth Radioactive Waste Management (Related Amendments) Act 2005 excludes application of the Administra-
ative Decisions (Judicial Review) Act 1977 to the minister’s decision on the location of a site. That was all about stopping local individuals and communities and state and territory governments from legally objecting to decisions. These measures destroyed any recourse to procedural fairness.

The bill goes a step further by removing the right to judicial review in relation to relevant decisions of Northern Territory land councils. The bill makes an absolute mockery of the original amendments introduced by the member for Solomon and passed by this House last year. Members of this House may recall that the member for Solomon’s amendments had the effect of allowing Aboriginal land councils to nominate a site in the Northern Territory, provided that the land council demonstrated evidence of consultation with traditional owners, that the traditional owners understood the nomination, that they had consented as a group, that any community or group that may be affected had been consulted and had had an opportunity to express its view.

The bill currently before the House provides that a failure to comply with these conditions does not affect the validity of a nomination. That effectively removes those conditions, gutting the member for Solomon’s credibility even further. The member for Solomon has failed to stand up for the people of the Northern Territory and has failed to stand up to the Howard government. He may think he is a lion in Darwin, but he is a kitten in Canberra. He has set the Northern Territory up to be the site for a global nuclear waste dump and a nuclear reactor.

Australians should be under no illusion that the Howard government will do whatever it takes to build those 25 nuclear reactors. The environment minister made this absolutely clear on 22 November, when he said: The Federal Government will do what’s required to ensure Australia has a secure energy future.

Senator Ian Campbell was asked repeatedly by journalists to rule out using the government’s corporations powers to impose nuclear reactors and refused to do so. In the Senate on 27 November, Senator Campbell again refused to rule out using these powers. There is no doubt that, with the outcome of the recent High Court decision in the Work Choices case, the Howard government will be seeking to trample on community objections and state and territory laws to impose nuclear reactors and high-level nuclear waste dumps on local communities across Australia.

The Switkowski report has been seen by some as a vindication of nuclear power’s role as the silver bullet answer to climate change. Of course, nothing could be further from the truth. John Howard’s plan to build 25 nuclear reactors is not a plan to avoid dangerous climate change; it is a plan to avoid taking action on climate change. With incredible optimism, Switkowski has suggested that Australia could have its first nuclear reactors within 10 years. The only way that could happen is through the use of the extreme measures in this and related bills; overriding state and territory laws banning nuclear power, overriding critical environmental protection and safety laws, and denying natural justice and the application of democratic principles. Even if the first nuclear reactor were built within 20 years, that still means 20 more years of inaction. We have already wasted the last decade. Our children and grandchildren cannot afford to see us waste another 20 years in the critical fight to avoid dangerous climate change.

The Stern review makes it very clear that we have 10 years in which to act. We are already at about 430 parts per million carbon dioxide in the atmosphere. That is increasing at a rate of about two parts per million per year. If that continues, we will hit 450 parts per million in the next decade. The scientists
agree that that means a two-degree Celsius increase in our temperature. Scientists agree that somewhere between two and three degrees Celsius is when you hit dangerous climate change. The fact is that we need action immediately—we need it now.

What is lacking is national leadership. Australia needs to go on a low carbon diet, not on a nuclear binge. Independent experts are telling us that we need to cut our greenhouse pollution by 60 per cent by 2050. That is exactly what Labor will do, and we have a plan to achieve that: ratifying Kyoto, having a national emissions trading scheme, significantly increasing the mandatory renewable energy target, having a climate change trigger in the EPBC Act and supporting renewable energy and clean coal technology as the way forward to achieve that objective.

The Switkowski report, however, makes it very clear that the Howard government has no plan in place to cut Australia’s greenhouse pollution below year 2000 levels. Australia’s greenhouse pollution, according to the draft report, will increase by 29 per cent by the year 2050. That is taking into account all existing measures, including the low emissions technology fund, and the impact of the 25 nuclear power plants. What we will have is Australia’s greenhouse emissions soaring from 558 megatonnes in the year 2000 to 718 megatonnes in the year 2050, according to page 81 of the Switkowski report.

John Howard’s nuclear plan will take Australia further down the path towards dangerous climate change. If global greenhouse pollution were to rise 29 per cent by 2050, the world would probably experience a four-degree rise in global temperatures. What does that mean for Australia? It means no more Great Barrier Reef. It means no more Kakadu National Park. It means a 48 per cent cut in water flow to cities and the Murray-Darling Basin. It means increasing the bushfire danger across Australia. It means moving the dengue fever transmission zone down to Brisbane and possibly all the way to Sydney. This is all according to the CSIRO. The government has had this scientific advice.

The CSIRO and the Stern review make it very clear that global emissions must be cut by 60 per cent by 2050 if we are to avoid dangerous climate change, but John Howard’s nuclear power plan will lead to a 29 per cent increase in our greenhouse gas emissions over that period. What is more, Stern has said the economic cost of action will be substantially more if we choose to delay the transition to the carbon constrained economy that is necessary.

Stern has spoken about the need to take action in the next 10 years if we are going to avoid a decrease of perhaps 20 per cent in the size of the global economy and a recession equivalent to both world wars and the Great Depression. It will be the Great Depression but with much worse weather. That is what we can expect if we continue to refuse to take action to move to a carbon-constrained economy. Climate change is a serious threat, but posturing about expensive and toxic nuclear energy, which is more than 10 years away, is a distraction that Australia simply cannot afford. Nuclear power is more expensive than energy efficiency and renewable technology, which is available right here, right now, today. Australia needs to cut our greenhouse pollution now, not in 10 or 20 years time.

The Switkowski report purports to be an economic analysis of the cost of 25 nuclear reactors, without looking at where those reactors will go and where the waste dumps will go. It is like asking a real estate agent for the cost of a house without looking at where it will be and how many rooms it has. It is absurd. Location is a prime determinant of the cost of any facility, let alone a nuclear
power facility. If you think about having 25 nuclear reactors then that means sites in Cairns, Townsville, Gladstone, the Sunshine Coast, Tweed Heads, Port Stephens, the Illawarra, Lithgow and the Hunter Valley, just in Queensland and New South Wales alone— as well as having nuclear reactors around Adelaide, Perth, Tasmania and Melbourne. It is a disastrous plan for Australia and it is dishonest to be out there promoting the Prime Minister’s nuclear fantasy without looking at where the reactors will go.

I have had a question on notice now for months asking the Prime Minister to rule out specific locations in each of the 150 electorates around Australia. The Prime Minister defies the Speaker and the standing orders of this House, and indeed has contempt for this House and for the parliament, by refusing to provide an answer to what is a very simple question. At the next election this will be a major issue. It will be a referendum on nuclear power: do you have John Howard’s fantasy for nuclear power, with laws which override state and territory laws, which override appeal rights, as this bill does? Or do we move down the clean coal technology and renewables road? It is quite clear what is necessary if we are going to avoid dangerous climate change and it is quite clear that this bill has given us yet another reminder that this is an arrogant government, out of control, prepared to impose draconian laws in order to pursue its ideological objectives.

As I have said, Labor opposes this bill. Labor will defend the right of the community to be consulted about radioactive waste to be transported through or dumped in their backyard. The primary purpose of the 2005 act was to impose a waste dump on the Northern Territory and to override community concerns and state and territory laws that may get in the way of that. This very heavy-handed approach, including the removal of procedural fairness and judicial review rights, has been extended even further in this amendment bill that we are discussing today. This bill paves the way for this very arrogant government to override any legislation from any state or territory that seeks to prevent the dumping of toxic waste in its area.

This bill can be viewed in the wider scheme of this government’s illogical persistence about taking our nation down the road of nuclear power. They certainly seem to be committed to doing that instead of actually looking at and addressing all of the issues to do with climate change. The fact is that they have refused to ratify the Kyoto protocol and they have totally disregarded all of the issues that were apparent in the Stern report. Despite all those warnings, all they keep talking about is the pursuit of nuclear power.

This bill removes judicial review. In effect what it does is to take away the accountability of this government. This bill amends the Administrative Decisions (Judicial Review) Act and the Commonwealth Radioactive Waste Management Act 2005 to make land nominations non-reviewable under the act. This bill provides that failure to comply with the site nomination rules in the act will not affect the validity of the minister’s approval of a nomination and removes any entitlement to procedural fairness in relation to the nomination of a site. What does this actually mean? It means that no-one will be able to hold the government to account for its actions in selecting a site for a waste dump.
Under these bills, there is no recourse available to ordinary Australians and no access to the courts is possible. In effect, this provision will extend the current protection from judicial review applied to ministerial consideration and decision-making on sites onto the processes and decision making of Northern Territory land councils. The government do not want to be held accountable for their actions and decisions; that is why they have made these changes. The reality is that the community will hold this government accountable next year, because this sort of action is typical of the arrogance that we see from the Howard government across so many different areas.

As I mentioned earlier, this bill needs to be viewed in the wider context of this government’s nuclear plan. It is an indication of what the people of Australia can expect in terms of consultation and choice on the nuclear issue. This is what they can expect—no consultation and no choice. This of course does not come as any surprise from this government.

I say to the Howard government on behalf of the people of Richmond and I say about this government’s nuclear plans: no to nuclear and no to the waste, not in our community, not at any time, not anywhere throughout the federal electorate and, indeed, not in any community throughout Australia. Many people in Richmond have raised with me the concerns that they have about this issue. As we have seen again and again, this government does not care about community opinion or consultation and that is clear from this legislation.

Let me say clearly that the economics of nuclear power plainly do not stack up. The reality is that insurers could charge up to $400 million to insure a nuclear power plant against the threat of terrorism. Britain has estimated it will cost $170 billion to clean up its 20 nuclear sites. In the US, direct subsidies to nuclear energy totalled $115 billion between 1947 and 1999, with a further $145 billion in indirect subsidies. In contrast, subsidies to wind and solar combined during the same period totalled only $5.5 billion. The government would have to subsidise 14 per cent of the construction costs and over 20 per cent of the costs of electricity produced for the first 12 years for nuclear energy to be viable.

What has the government had to say about the economic feasibility of nuclear power? Not surprisingly, there have been several contradictory statements. The Treasurer said on 23 May 2006:

At some point I would think that it would become commercial; that’s some time off.

And on 15 May 2006, the Treasurer said:

It is not economic at this time in Australia because we have such proven resources of gas and coal.

On 21 May 2006, the Minister for Finance and Administration said:

I cannot see how nuclear power could possibly be viable in this country for at least 100 years. I think we could waste a lot of time and hot air debating nuclear power, when really it’s just not going to be on the horizon economically for a very long time.

On 23 May 2006, the Minister for the Environment and Heritage said:

My assessments of the economics of nuclear power for Australia have not changed—I suspect it would be a long, long way down the track.

On 22 May 2006, the Minister for Industry, Tourism and Resources said:

The economics of nuclear power just simply don’t add up.

So even the government know it is not economically sensible. All those statements from government ministers reaffirm that. The real cost of nuclear electricity is certainly more than that of wind power, energy from
bio-wastes and some forms of solar energy. Of all the energy options, there is no doubt that nuclear is the most capital intensive to establish, decommissioning is extremely expensive and the financial burden continues long after the plant is closed. We know that this bill, by establishing toxic waste dumps, is setting the stage for nuclear power in this country. There is no doubt that it will happen, and everyone knows it.

Nuclear energy is not a solution to climate change and it is not a solution to our growing energy needs. It seems only government members continue to say that it is a solution. We have an abundance of free energy sources in Australia. Solar energy and wind energy could be harnessed at little cost to the environment. We have abundant sources of alternative energy. Nuclear power is not necessary. It is not the answer. There are cleaner, greener, cheaper, safer options which should definitely be pursued.

This government plans to impose nuclear waste dumps on unwilling communities. That is what this legislation is all about. We know from this bill some of the areas in which the government wants to put the waste, but the Prime Minister and the Minister for Education, Science and Training have refused to talk about specific locations—although I know the science minister has been quite happy to rule out her own electorate. The people of Australia want to know: will there be nuclear waste dumps in areas other than the Northern Territory? Which suburbs or towns will be home to the new nuclear reactors and enrichment plants? What will the government do to make sure local residents and schools are safe if they are to have reactors nearby? What will be done with the nuclear waste? These are questions which Australian communities desperately want answered but the government refuses to answer them.

Given the Prime Minister has not been able to get agreement on the location for low- and medium-level nuclear waste, how does he plan to dispose of or store high-level waste? Of course, he has not been prepared to even attempt to answer any of these questions let alone address the problems of nuclear waste and its transportation and the safety of operations of nuclear facilities. The reality is that the Prime Minister has refused to come clean on the question of where he will put his nuclear power plants and dumps. These are certainly questions that we on this side of the House will continue to ask because this issue is a major concern to people throughout Australia.

The people in Richmond are very concerned and scared. They are scared because the geographical and environmental requirements for a nuclear power plant seem to exist in the Northern Rivers area. The people in Richmond have a right to be concerned because in May this year the Treasurer, who was then Acting Prime Minister—which is probably as close as he is ever going to get—refused to rule out Richmond as a site for nuclear power plants when I put that question to him.

Let me tell this government now, before they get any ideas, that the people of my electorate will not stand for a nuclear power plant in our area. It is quite simple: we will not stand for waste being dumped in or trucked through our communities—under no circumstances. We do not want this waste and we do not want a plant near our schools or our homes. The people do not want the associated risks, the fear or the unsightliness. If the Howard government are so keen on nuclear reactors, perhaps electorates such as Bennelong or Higgins might be better places for reactors than dumping them in areas like Richmond.
Putting aside this government’s persistence with an illogical and dangerous nuclear agenda, one of the most concerning aspects of this legislation is the lack of community consultation. Of great concern is the fact that this government has imposed its will on the Northern Territory. The Central Land Council is opposing the waste dump in the Northern Territory. They are strongly opposed to the Commonwealth radioactive waste management facility being located there. We know from international experience that community consultation is both necessary and desirable. We know that it should be happening. In the case of nuclear waste, the United Kingdom’s Committee on Radioactive Waste Management reported on 31 July this year:

There is a growing recognition that it is not ethically acceptable for a society to impose a radioactive waste facility on an unwilling community. Finland and Sweden are two countries that have achieved site selection on the basis of community consent, through a process of public participation and involvement going well beyond the traditional report and respond approach.

Local communities have a right to know this government’s intentions and what to expect from it, both on nuclear power plants and on the siting of future nuclear waste dumps. But this government refuses to answer questions in relation to these matters, totally removing the issue of community consultation and disregarding the wishes of Australians.

There are many issues surrounding the storage of toxic waste, and they certainly are of grave concern to many people. Let us look at the facts associated with toxic waste. Every nuclear reactor generates 20 to 30 tonnes of radioactive waste each year. At the moment there are 443 nuclear power plants around the world and 284 research reactors, and 220 ships and submarines are powered by nuclear reactors. Britain’s civil and nuclear industries have accumulated 2.3 million cubic metres of nuclear waste around their country. The fact is that more than 250,000 tonnes of waste is already stockpiled around the world and we do not know what to do with that waste because no solution has been put forward to deal with it.

The Department of Education, Science and Training About Radioactive Waste fact sheet of 2005 tells us that the Commonwealth has approximately 3,600 cubic metres of low-level waste and produces about 30 cubic metres of low-level waste per year. The Commonwealth has approximately 400 cubic metres of intermediate-level waste in Australia and generates about five cubic metres per year. As a nation, we still do not have a solution for the disposal of our very small quantity of nuclear waste. So what is the government’s reaction?

When government ministers have been asked about nuclear waste storage we have heard them say, ‘Oh, that’ll just be a matter for governments of the day.’ That is a very irresponsible position to take. Is it a problem that will be inherited by our children and grandchildren? Is this the kind of future that we want to leave for them? The reality is that, by doing that, we are just sentencing future generations of Australians to live in a toxic wasteland—again, another irresponsible move by the government in that they are just fobbing it off for future generations to worry about.

What about the logistics of transporting this waste? How will that happen? Even if we are talking about waste from Lucas Heights, how will it be transported to the Northern Territory and which towns and villages will be on the route? Which schools will the trucks of toxic radioactive waste be travelling past and which homes will line the
roads that they will be travelling along? People want to know which regional and rural towns with little access to emergency services required to respond to a toxic spill will be in the firing line, because no-one wants truckloads of toxic waste travelling through their streets on the way to somewhere else and no-one wants it stored in their neighbourhood. There are very real safety concerns here in relation to transportation. In 2004, the New South Wales government instituted an inquiry into the transportation and storage of nuclear waste. The executive summary says:

It is hard to see how the proposal to move waste to remote areas away from the point of production will increase safety as the transportation of the material actually increases the risk from accident or intervention.

The Howard government will be placing our rural and regional communities at risk by transporting this waste. That is the harsh reality.

This government plans to ride roughshod over moves by any state or territory government to protect their people. Despite legislation passed by the Northern Territory Legislative Assembly, this government will override the rights and interests of the Northern Territory community. The federal government has deliberately chosen to intervene in the affairs of the Northern Territory and override those rights, and the Territory community has every right to be unhappy about that process. Indeed, the member for Solomon has walked away from promises made to the Northern Territory community prior to both the last federal election and the last Northern Territory election that there would be no such waste facility in the Northern Territory. But it seems that no promises are sacred and no areas are immune from this government’s determination to go nuclear.

If the Northern Territory is the government’s first victim, which state will the federal government choose to override next? If this government is planning to take in waste from other countries, it is going to need a lot of dumps for the hundreds of thousands of tonnes of waste looking for a home. We know there is growing momentum internationally for countries that process uranium to also accept spent fuel. We know that the government has had enormous difficulty finding a solution for Australia’s low- and intermediate-level waste, let alone taking the world’s high-level waste.

As I have said before many times, those of us on this side of the House stand for renewables, not for reactors. The people in my electorate of Richmond are totally opposed to the reality of having a nuclear reactor in our area. It is a matter of grave concern for us and for our children in the future. The reality is that nuclear power will not deliver solutions; it will just create more problems for our children and grandchildren. As I have said, the economics of nuclear power simply do not stack up at all when you look at the facts. Of all the energy options, nuclear is the most capital intensive to establish, decommissioning is extremely expensive and the financial burden continues long after the plant is closed.

It is absolutely shameful the way the Howard government has failed to address the issues of climate change. We all know the extreme impacts of climate change. We know that we need to have national leadership and national direction on this issue. We all saw and read the stark findings of the Stern report and noted the harsh reality of what will happen to our world if, as a community, some action is not taken in relation to climate change.

On so many occasions we have put it to the Howard government that, first and foremost, it needs to ratify the Kyoto protocol. But the government just runs away from that
and is not prepared to take any action, despite the fact that international communities are saying that our government should be doing more and that people right across Australia are saying that the government needs to be taking more action in relation to it. Instead, all we see is the government mocking those who stand here and speak in a very concerned way about climate change. We do not see the government taking any action at all to protect the world as it is today and to protect it for our children and grandchildren. Instead, we just see the government hell-bent on and committed to pursuing the issue of nuclear power. That is always its stock standard response.

That may be what the government is saying, but I know it is certainly not what the people of Richmond, or indeed the people of Australia, are saying. This certainly will be a major issue at next year’s federal election, because people will be making specific decisions about having nuclear reactors in their area. I can assure you that whether it be any of the towns throughout Richmond, such as Tweed Heads, Banora Point, Murwillumbah, Kingscliff, Pottsville, Mullumbimby, Brunswick Heads, Byron Bay, Lennox Head or even Nimbin, or other towns, none of them want to have a nuclear reactor in their backyard. So it will be a major part of next year’s campaign, as we see the Howard government hell-bent on pursuing its agenda on nuclear power and failing to fulfil any realistic obligations about climate change and failing to look at renewables. That is the direction we should be taking and that we should be seeing from our national government; instead, we see it running away time and time again.

It is for these reasons that I am totally opposed to this legislation. This issue will increase in intensity. Many months ago I started a petition in my area about not having a nuclear reactor within the federal electorate of Richmond. I received an overwhelming response from people who are concerned that they will eventually have a nuclear reactor in their backyard. Many people continue to sign that petition, because their concerns about this issue are so intense. They constantly see the Howard government going down this path and refusing to rule out where these reactors will go. That is irresponsible and shows a complete lack of leadership. In fact it is mocking the Australian people by not answering the questions on the very serious issues we have in the community about the presence of nuclear reactors. It is certainly an issue that people keep raising with me. (Time expired)

Mr GARRETT (Kingsford Smith) (11.31 am)—I want to support the second reading amendment moved by my colleague the member for Jagajaga and the remarks by previous Labor members as I rise to speak on the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006. The bill amends the Administrative Decisions (Judicial Review) Act 1997 and the Commonwealth Radioactive Waste Management Act 2005 to make land nominations, as distinct from decisions, nonreviewable under the AD(JR) Act and to provide that the failure to comply with the site nomination rules in the act will not affect the validity of the minister’s approval of the nomination.

Specifically, Labor opposes this legislation because it undermines the existing amended Commonwealth Radioactive Waste Management Act. Additionally, because it clearly reduces the need for consultation and community consent, which is an absolutely essential prerequisite to decision making of this kind, it is inconsistent with international best practice guidelines and existing statutory obligations under the land rights act.
This is particularly important in the light of the release of the draft Switkowski review, with the prospect of a greatly increasing volume of radioactive waste being generated in Australia if in fact the Howard government’s plans for a substantial increase in a domestic nuclear energy industry come to fruition. I will return to that issue at some point later. At this stage I confine my observations simply to say that it is not acceptable for the Australian population to find in any planning and approvals processes for the storage of radioactive waste or nuclear waste that the legislative framework, and the consultation framework under which that operates, is less than world’s best practice, which has been identified particularly in European countries and the United Kingdom as requiring a full, informed and participatory mode of community involvement. Very clearly the legislation before us in the House does not provide that standard at all.

Additionally, Labor opposes the legislation because it circumvents judicial review. Yesterday we were considering legislation in the House which related to whether courts could take into account customary matters in terms of sentencing under the Commonwealth Crimes Act. Again this government saw fit to enact legislation that reduces the capacity of the legal system and judges to exercise their responsibilities, both under the law and under statutes. So this bill is an extraordinary narrowing down of the capacity of normally allowable and accessible processes that communities and the public have, both to challenge and to be informed about government decisions.

A strong argument has been put that the debate about the return of nominated lands, as identified under this legislation, should be delayed until the final Switkowski report is brought down. I think there is a very good reason for that and I would certainly like to put that to the government. It seems clear that what is proposed in the draft report—the review has encompassed a fairly significant expansion of likely nuclear activity in Australia, or at least the possibility of that—will bear down very strongly upon Indigenous communities, which hitherto are the ones that have borne the brunt and will bear the brunt of having radioactive materials stored in or near their lands.

As I address the House I cannot help reflecting on the extremely casual acknowledgement that Mr Switkowski gave to the prospects of the safe disposal of radioactive waste in Australia. As I saw it on television, it was one wave of the hand and the suggestion that we have enormous amounts of remote inland regions where no-one particularly is and where, surely, we can find a location for our waste.

Apart from that being an inaccurate judgement on his part, it also fails to understand that both the history of uranium mining in this country and the history behind the identification by the Commonwealth of a site for the storage of low-level, medium-level and ultimately high-level radioactive waste have only ever involved Aboriginal communities, Indigenous communities. The fact of the matter is that the material has been stored and still is stored in places like Lucas Heights, but ultimately it will be Indigenous communities that will be faced with the prospect of having facilities like this in and around their country for very significant periods of time. It seems to me that their interests ought to be given appropriate consideration and that, under this legislation in particular, despite the fact that the Northern Land Council has had an interest in seeing this legislation come into the parliament, the broader Indigenous interest of communities is not being met.

Labor has opposed this bill for a number of reasons, but I think it is worthwhile re-
viewing the history in some detail and pointing out the statements that various ministers have made over time in relation to the storage of waste and what the Commonwealth’s approach would be to a waste dump. On 24 January 2005, the then Minister for Education, Science and Training, Dr Nelson, specified particularly that the Commonwealth would prioritise an offshore site for a waste dump. He said:

So the Australian government will be looking at an offshore facility, that is our clear preference.

That was a very clear statement by a senior government minister who had responsibility at that point in time. In fact, he said:

We are determined that it will be an offshore facility but we are also concurrently looking at a ‘remote’ area, a long way away facility, to store intermediate and low level waste should the offshore site not be available.

There is no question that he was giving himself a get-out-of-jail card when he made that statement. It was grossly irresponsible of Minister Nelson at that time to start suggesting as he did, almost unilaterally, that there would be the prospect of the storage of medium-level or high-level waste in offshore islands or on Commonwealth land somewhere off the coast of Australia. Clearly, he was flying a kite to take away the very real political heat that the government has felt on this issue in the NT.

Senator Ian Campbell, just prior to the 2004 election, specifically ruled out the Northern Territory for a dump site. He said:

The Commonwealth is not pursuing any options anywhere on the mainland—

he also had the offshore option in mind—

so we can be ... categorical about that, because the Northern Territory is on the mainland—

A small geographical lesson from Senator Campbell, just to point out to us exactly where the Northern Territory was. Then later, of course, the member for Solomon, Mr Tollner, also ruled out the Northern Territory as a host for the Commonwealth waste dump. As late as June 2005, he said:

There’s not going to be a national nuclear waste dump in the Northern Territory ... That was the commitment undertaken in the lead up to the federal election and I haven’t heard anything apart from that view expressed since that election.

It could not be clearer: a succession of government ministers and government members have completely misled the Australian public, the people of the Northern Territory and, in particular, Aboriginal communities about what the likely consequences were of them making a decision to determine where radioactive waste would be disposed. And they have had absolutely no qualms about doing that.

That is of enormous regret. In particular, it is of enormous regret because the Australian population is now faced with the prospect of increasing amounts of radioactive waste being generated by Mr Howard’s dreams of a nuclear energy industry ramped up to the max, some 25 reactors that have been posited as possible by the Switkowski review and report, and, of course, the question then of where the waste that is generated by these reactors ultimately will go. What confidence can Australians have—whether they are in New South Wales, Victoria, South Australia, Western Australia and so on—in anything that the government says about nuclear matters and, in particular, about the critical issue of where waste will be disposed of and how it will be stored, if in fact its assertions in the past have been proven to be totally false?

It is a matter of history that the government abandoned its search for an offshore site, which I suspect did not take much time, effort or energy, and announced on 15 July that it would investigate three locations in the Northern Territory. In late 2005, the Howard government completed parliamentary passage of the legislation and imposed a
site selection, construction and operation of a waste dump on the Northern Territory. That was in complete contradiction to its pre-election commitments and in the face of considerable, and I think justified, opposition from the Territory government and local communities. I must stress here that Labor accepts that there is a need to find a safe repository for these existing wastes but that it has very grave concerns about the process that has been adopted by the federal government, including the processes that are part of the amendment that has come into the House and that we are debating today.

The purpose of the Commonwealth Radioactive Waste Management Act 2005 was to put beyond doubt the Commonwealth’s power to conduct those activities relating to siting, construction and operation of a radioactive waste facility. The purpose of the provisions is to prevent local individuals or communities, representative bodies or even state or territory governments from being able to undertake legal objections to the Commonwealth’s action which may delay the project. Labor did oppose the 2005 bill on a number of grounds, including those that I have mentioned: that it broke the government’s pre-election promises; that it overrode many federal legal protections including the then Environment Protection and Biodiversity Conservation Act, the Aboriginal and Torres Strait Islander Heritage Protection Act, the Native Title Act and the Lands Acquisition Act; and that it was literally refusing to listen to the concerns expressed by Northern Territorians, including a group of Indigenous people who came and visited the parliament and met with a number of parliamentarians, including me, at that point in time.

Additionally, we opposed the legislation because it destroyed any recourse to procedural fairness provisions for anyone who wished to challenge the minister’s decision. Also, and I think importantly, the fact that the legislation did not contain the capacity for proper consultation and proper public community involvement in determining how, why, in what manner and in what form waste would be imposed upon a community meant that those matters were not considered at all.

The original CRWM Act provided for assessment of three potential sites—Fisher’s Ridge, Hart’s Range and Mount Everard. I know the Mount Everard site in some detail. I have some real concern about the desirability of all of them but about that site in particular, which I have addressed in the House previously. Additional land nominations provisions were inserted by way of amendment by the member for Solomon. These provisions were to allow for the land to be nominated for assessment as a possible site for a facility by the NT Chief Minister or the Northern Land Council.

The Department of Education, Science and Training have acknowledged in Senate estimates that they have been undertaking discussions with the NLC on possible nominations of additional sites. The government stated that the bill addresses concerns raised by the NLC in relation to nominating a site under the CRWM Act. If not addressed, the NLC may be unwilling to nominate a site should a community within its jurisdiction wish to volunteer its land. Departmental officers have not denied that the objective of this bill is to do that—to facilitate a site nomination from the NLC. Importantly, this goes against the previous Tollner amendment, which included provisions that a process of nomination by a land council should demonstrate evidence of consultation with traditional owners, that they have consented as a group and that any community or group that may be affected has been consulted and has had an adequate opportunity to express its views.
The new section 7(5A) provides that a failure to abide by what are currently binding rules of nomination will not affect the validity of a nomination. Yet again, it is really window-dressing—laying in place a political solution to a political problem but not providing a policy or a procedural solution to what is a deeper issue, which is the requirement and the necessity for there to be adequate and comprehensive consultation, particularly for Indigenous people whose lands or whose attachment to land may be affected in that way.

The Northern Land Council’s full council resolution of October 2005 provided a mandate for the council to continue its further discussion with the government. I will summarise it briefly, given the time. It says that the NLC supports the amendment provided that:

(i) traditional owners of the site agree;
(ii) sacred sites and heritage are protected ...
(iii) environment protection requirements are met (including under current Commonwealth NT legislation).

Clearly that is not the case with the legislation that is in front of us. It continues:

(iv) Aboriginal land is not acquired or native title extinguished (unless with the traditional owners' consent).”

But the provisions of the bill that we are debating today are in opposition to that. They do not permit that to happen, and they also contradict the commitments to the parliament by the Minister for Education, Science and Training in her second reading speech when she said:

Current provisions of the act set down a number of criteria that should be met if a land council decides to make a nomination.

... ... ...

I can assure the House that, should a nomination be made, I will only accept it if satisfied that these criteria have been met.

But of course she can do the complete opposite if she so chooses. Again, it is a cascade of words, of processes and of amendments which have a very simple effect—to deny the capacity for an Aboriginal community to assert their necessary rights and their involvement in a process of this kind.

In the time that is left to me, I want to make a further reference to the question of the safe disposal of radioactive waste and nuclear waste generally. I simply remark that we are having a debate about whether or not Australia should embrace the nuclear option as a means of generating its energy into the future on the basis that it would be environmentally safe and that it would not impose additional economic costs on the community by way of the taxpayer meeting insurance, underwriting construction, organising soft loans or providing for write-offs in the event that a project should go horribly wrong. If the government is serious about pursuing this policy ambition and does not take into account the likely consequences of the increasing transit of nuclear material within Australia and overseas then it will find that the Australian people will not support the direction.

We should consider the very difficult processes in this country that attach to properly regulating and ensuring the safe disposal of the already existing low- and medium-level wastes—which are quite low in volume—and the amount of regulatory oversight that is necessary. The only way that the government has been able to secure some possible short-term solution to the issue it faces with the nuclear facility at Lucas Heights in getting up and running in its second phase and their meeting licensing requirements in finding a location for that waste is to impose a waste dump on Aboriginal people and communities in the Northern Territory. This sets an extremely poor precedent for future processes when we will have much greater volumes of radioactive waste if
the Howard government’s plans for a nuclear Australia proceed. I am confident that most Australians do not want a future of that kind. We reject this legislation and we reject Mr Howard’s nuclear future.

Mr ANDREN (Calare) (11.52 am)—I thank the member for Kingsford Smith for some of his views, with which I certainly align my beliefs. There is something of a ‘groundhog day’ happening here. Just over a year ago I stood here and condemned the Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005, which overrode any state and territory laws where they would regulate, hinder or prevent any work undertaken to select, build and operate a nuclear waste dump.

Those two bills also allowed the Commonwealth to override its own existing laws originally drafted to afford a minimal degree of environmental and heritage protection as well as the recognition of traditional ownership, including the Aboriginal and Torres Strait Islander Heritage Protection Act, the Environment Protection and Biodiversity Conservation Act and the Native Title Act. Those bills also asserted that the Minister for Education, Science and Training need not accord any procedural fairness to anyone affected by these decisions. They ensured that the parliament cannot disallow any declarations made under it, such as the government’s decision on the preferred nuclear waste dump site or the extinguishment of existing rights and interests. They allowed the minister to dismiss any objections raised by traditional owners of the land who were about to have nuclear waste dumped on their country or, indeed, any objections by other bodies, such as those state and local governments through which waste might be transported across Australia. Those bills made sure that any decisions made by the Commonwealth about the storage of radioactive waste are not subject to judicial review.

Fast forward to June this year and the Aboriginal Land Rights (Northern Territory) Amendment Bill 2006, which rode roughshod over the legal rights of traditional owners, trampling guarantees that informed consent must be given by the owners of their land before anything happens on or to that land. That bill, now law, allows the minister to approve the delegation of a land council’s authority and functions to people who are not the traditional owners of that land, and it allows the creation of a new land council without necessarily the traditional owners’ permission, understanding or knowledge. That bill allows land legally owned by traditional owners to be leased for 99 years to the Northern Territory government, which may then sublease it to any body for any use it pleases.

Just six months later, through this, the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006, we find the government taking further life and meaning from Indigenous rights while breathing more life into the spectre of nuclear power, with its poisonous legacy. For that is what this is all about: it is the post-Pangaea solution—access Indigenous lands for intermediate waste, with a view to stepping up to full-blown nuclear energy waste; a waste no country on earth has found a site for or method to get rid of.

This bill comes back to finish the job the previous bill started by removing procedural guarantees that had normally been accorded to decisions taken under the Aboriginal Land Rights (Northern Territory) Act 1976, until its emasculation earlier this year. Once, the Administrative Decisions (Judicial Review) Act 1977 facilitated examination of processes through which a land council made its decisions on behalf of the traditional owners
it was supposed to represent. Under the Aboriginal Land Rights (Northern Territory) Act, this meant ensuring that land councils negotiated with the traditional owners and with those affected by any proposal using traditional or other agreed processes to allow those owners informed collective consent. It insisted that the land councils responded to the views of those Aboriginal peoples who held collective title to their traditional lands.

Today this bill removes from the oversight and protection of the AD(JR) Act the process undertaken in the nomination of a site for a radioactive waste dump, so removing any legal compulsion to ensure the informed and freely given consent of those whose land is being offered, either by an unrepresentative land council or by the Chief Minister of the Northern Territory, under the so-called authority of a 99-year lease. In the minister’s second reading speech the eradication of this legal, indeed moral, imperative is swept away as being:

… to prevent politically motivated challenges to a land council nomination.

This is cemented by ensuring that neither decisions by the minister nor nominations by land councils or the Chief Minister need provide procedural fairness—that is in item 4—and by confirming that a ministerial declaration of a site which has been made in breach of the now ineffective safeguards in the existing legislation—section 3B—is immune to those safeguards anyway.

Should we all applaud the government for its generosity when it provides for the future return of Aboriginal land to its original owners, provided it is the same land trust or its successor which originally held the land on behalf of the traditional owners—if some future minister decides to do so at his or her ‘absolute discretion’ and when the facility is no longer needed as a radioactive waste dump and is declared to be safe? Should we all congratulate ourselves on our largesse in providing indemnity to the land trust against any action, claim or demand arising from damage caused by radiation exposure?

That the minister should claim in the first sentence of her second reading speech that this bill provides for the return of a volunteer nuclear waste dump site to its traditional owners is rubbish. This bill is not about guaranteeing the return of a site at some indeterminable time generations down the track. It is about removing any legal, environmental or moral safeguards that would get in the way of the government storing radioactive waste on land owned by Aboriginal people who might not have given their permission freely—or indeed at all—and those who might not even have the language to contemplate the acquisition of land by another body without their permission, or the words to describe a potential poisoning of country through such an insidious thing as radiation, or the concepts to even imagine willing the risk of poisoning country for hundreds of thousands of years after them.

This bill is about the death of Aboriginal rights to and control of their own land. It is about the demise of accountable government and due process. It is all about this government’s push to nuclear power, its shortsighted and dangerously lazy adoption of the nuclear option and its dismissal of serious commitment to alternative energy sources—especially solar, wind and wave—and lack of commitment to encouraging conservation of power instead of profligate consumption by a generation that by and large cares little for tomorrow. This bill is about the glittering prize of rising royalties paid straight to the Commonwealth through the mining of uranium—again, short-term illusory wealth with the waste swept under the carpet or, in this case, under traditional Indigenous lands. The minister says in her second reading speech:
We will not be returning a dirty or polluted site.
No-one on this planet has been able to guarantee that, except this minister. She says that, ‘in the extremely unlikely event that contamination occurs’, ‘the traditional owners will be indemnified’. No-one can guarantee ‘extremely unlikely’, and the minister knows it.

Let me just place on the record some facts. The world’s nuclear sites will require monitoring and protection for centuries after they are closed down. How well did this country monitor asbestos mining and the town sites of those mining communities? Remember Anthony Mundine’s home town of Baryulgil near Grafton, whose largely Aboriginal inhabitants suffered the ravages of asbestos poisoning for 30 years and who are now bearing the health costs? How much did we care to monitor those sites over the years?

You may be able to cover asbestos; you can’t do that to radiation. The global volume of spent fuel is about a quarter of a million tonnes and is growing by 10,000 tonnes annually. No wonder there is the urgency to bury the stuff—especially if we, in our short-sighted greed, are going to mine more of it.

However, despite billions of dollars spent by the nuclear industry and governments around the world, no-one—not even this minister—can come up with a feasible and sustainable solution. You might say we are talking about low-level and intermediate waste in Australia at the moment and in this bill, but this is all about preparing for the waste disposal options of a substantially ramped-up nuclear energy—and, undoubtedly, nuclear weapons—industry.

After nearly 20 years of research, and billions of dollars, the Yucca Mountain site in Nevada is as far away from use as ever. Not one gram of spent fuel has so far been taken to the site from nuclear sites across America. Yet the US pushes on with plans for an expanded nuclear industry.

And, according to Greenpeace, the dilemma does not end with high-level waste. There are numerous examples of disposal sites containing low-level waste which are already leaking radiation into the environment. Drigg in the UK and CSM in Le Hague, France, are said to be two of those sites. There are simply no proven technologies to isolate nuclear waste from the environment.

Whatever the bland spin of the government—that this is about low- and medium-level radioactive waste management—we know the agenda is greatly different. The Ziggy Switkowski report and the Prime Minister’s nuclear enthusiasm betrays that agenda. The Prime Minister and his generation will be dead and gone, but the lasting legacy of nuclear waste will be with us forever. It will be for our kids’ kids to monitor the radiation leakages, long after the last uranium ore has been mined. And uranium is one ore that, if removed from our exports, would hardly register on the GDP radar. The value of uranium exports has been totally overspun by this government, the Labor Party’s resources spokesman and the minerals industry. On top of that, there is the inevitable proliferation of nuclear weapons from exported uranium and the impossibility of any meaningful IAEA safeguards system.

This legislation is about cynical exploitation of land that has been Indigenous for 60,000 years, with a view to contaminating it for at least another 60,000 years. It is the thin edge of yet another Howard wedge, and I totally reject it.

Ms ANNETTE ELLIS (Canberra) (12.04 pm)—I rise today to speak on the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006. This bill is
about the Howard government using Commonwealth power to impose a nuclear waste dump on the people of the Northern Territory, in particular on traditional landowners. But do not think that it will end there. Following the release of the government’s nuclear inquiry report last week, we can assume that the Howard government will use Commonwealth power to impose nuclear waste dumps and nuclear power stations on unwilling states and territories right around Australia—but I will discuss that a little later. First, let us look at the developments of this bill and why the Howard government is so desperate to impose a nuclear dump on the Northern Territory.

The Commonwealth has approximately 3,600 cubic metres of low-level waste, half of which is at Woomera, and produces around 30 cubic metres of low-level waste per year. The Commonwealth also has approximately 400 cubic metres of intermediate-level waste in Australia, and generates less than five cubic metres per year. Intermediate-level waste generated from spent fuel has been sent to France—6½ cubic metres—and the UK—26½ cubic metres.

The waste dump is needed and intended to house waste from, firstly, the new reactor, the Open Pool Australian Light-Water Reactor, or OPAL, presently under construction; the old reactor, the High Flux Australian Reactor or HIFAR, which is still operational; returning waste from France and the United Kingdom; defence waste, held at various sites around Australia, including contaminated soil from the Woomera test sites; Commonwealth Scientific and Industrial Research Organisation or CSIRO accelerator waste; and other Commonwealth waste.

In 2004, the government stated that it would cease trying to place a national low-level dump site near Woomera in South Australia and was going to pursue sites on Commonwealth land, both onshore and offshore. These sites would now co-locate low-level and intermediate-level waste.

Just prior to the 2004 federal election, the Minister for the Environment and Heritage, Senator Ian Campbell, ruled out the Northern Territory for a dump site: ‘The Commonwealth is not pursuing any options anywhere on the mainland, so we can be quite categorical about that, because the Northern Territory is on the mainland.’ That was a revelation for him, I am sure!

In June 2005, the member for Solomon stated:

There’s not going to be a national nuclear waste facility in the Northern Territory. That was the commitment undertaken in the lead-up to the federal election and I haven’t heard anything apart from that view expressed since that election.

In July 2005, the government did what it does best: it went back on its word. It announced that it would investigate three locations in the Northern Territory to determine the most suitable location for a waste dump. In contradiction of its pre-election commitment and in the face of strong opposition from the Territory government and local communities, it decided to impose its wish. The government introduced the Commonwealth Radioactive Waste Management Bill 2005 to enable it to impose a radioactive waste dump on the Northern Territory. While I will not go into the technical legalities of the bill, I have to say that it excluded many of the procedural guarantees that normally allow a decisions to be made under the Aboriginal Land Rights (Northern Territory) Act 1976. In other words, it destroyed the existing or possible rights of Aboriginal people to fight against having a waste dump imposed on them. Indigenous people would have no recourse to procedural fairness provisions for anyone wishing to challenge the minister’s decision to put a waste dump in the Northern Territory.
Labor strongly opposed the 2005 bill because of the impact it would have had on the voice of the Indigenous people and also for several other reasons: firstly, the government broke its pre-election promise not to locate a waste dump in the Northern Territory; secondly, it tramples over the rights of all Northern Territorians by overriding any existing or future state or territory law or regulation which interferes with the Commonwealth’s waste dump site selection; and, thirdly, it disregards the International Atomic Energy Agency’s recommendations on good social practices like consultation and transparency in relation to nuclear waste. I say in passing that this government tends to ignore those sorts of social practices on a range of issues, not just this one.

It is important to note that we have discovered in Senate estimates that the government has had discussions with the Northern Land Council on possible sites for radioactive waste. Unfortunately, the government will not reveal the content of those discussions but, in departmental briefings, officers have not denied that the purpose of the 2006 bill is to facilitate or encourage a site nomination from the Northern Land Council.

The 2006 bill, which we are debating today, goes one step further than the 2005 bill. It takes away even more rights from traditional owners of land. This bill amends the Administrative Decisions (Judicial Review) Act 1997 to make land nominations non-reviewable under the act. So, if a land council or the Territory government nominates land as a site for nuclear waste, local traditional owners of the land have no right to challenge that nomination. The government would have us believe that this will not occur. In her second reading speech on this bill, the Minister for Education, Science and Training said:

Current provisions of the act set down a number of criteria that should be met if a land council decides to make a nomination. Importantly, these criteria include that the owners of the land in question have understood the proposal and have consented to the nomination, and that other Aboriginal communities with an interest in the land have also been consulted.

I can assure the House that, should a nomination be made, I will only accept it if satisfied that these criteria have been met.

This is a farce, because the provisions in the bill remove the judicial review rights and the bill specifically provides that a nomination which does not comply with these criteria will still be considered valid. This bill also conflicts with the criteria set out by the Northern Land Council resolution of October 2005, which states:

The Northern Land Council supports an amendment to the Commonwealth Radioactive Waste Management Bill 2005 to enable a Land Council to nominate a site in the Northern Territory as a radioactive waste facility, provided that:

(i) the traditional owners of the site agree

(ii) sacred sites and heritage are protected (including under current Commonwealth and NT legislation);

(iii) environment protection requirements are met (including under current Commonwealth and NT legislation);

(iv) Aboriginal land is not acquired or native title extinguished (unless with traditional owners’ consent).

I can only imagine how difficult it might be for land councils in the real world in which we operate if they are faced with pressure from the government and offered large amounts of funding or other incentives while some Indigenous communities strongly object to their land being nominated as a nuclear waste dump. This has the potential to split Indigenous communities and put a lot of pressure on many people.

There is a further appalling aspect of this legislation. The legislation provides for Aboriginal land used as a radioactive dump to be
returned to the traditional owners when it is no longer required and when it is considered ‘safe’. The problem is that the legislation does not guarantee the return of the land; it just outlines the process in the event that the Commonwealth chooses to return it. I ask a fundamental question: how long would it take for the land to be ‘safe’? As I understand it, a waste facility would probably be operational for 100 years, and then a further 200 years at least is needed for monitoring. So any possible return of the land to traditional owners could not occur for about 300 years. As the member for Calare said in his contribution to this debate just a few minutes ago, it seems that, under this government’s ideas, this land is basically destined to be polluted forever.

This bill takes away the rights of traditional landowners and gives the Commonwealth power to place nuclear waste dumps in the Northern Territory without consultation or the approval of traditional landowners. This leads to the question: how far is the government willing to go to place nuclear waste stations and dumps throughout Australia? The release of the recent nuclear inquiry report tells us that, if the coalition wins the next election, 25 nuclear power stations will be built around Australia—and obviously each of these power stations will produce nuclear waste. The government has refused to tell us where these power stations and high-level nuclear waste dumps will be based. Not one of the state or territory governments wants a nuclear power station or a dump, but that appears to make no difference at all to this government.

The government was quite happy to override state and territory rights to force harsh industrial relations reforms on all Australians, so why wouldn’t it do the same on nuclear power stations and dumps? As the member for Canberra, I cannot let this go without noting that the democratically elected government of the Australian Capital Territory has, on more than one occasion, been overruled by the Commonwealth government when it sees fit to do so. If the Commonwealth government does this on other issues, it is obviously going to be happy to do it on this issue as well.

We in the Labor Party have a very different view on energy. Labor believes that nuclear power is not the answer to Australia’s energy future. Our future lies in clean coal, gas and renewables, not reactors. I strongly believe that nuclear power is the wrong way for this country to go. The economics do not stack up. We have abundant low-emission energy resources. The issue of nuclear waste disposal is not resolved, and there are serious national security concerns. I think the government should adopt key measures from Labor’s climate change blueprint, including our plan for a national emissions trading scheme. Labor’s national emissions trading scheme is the right course for Australia’s environment, economy, jobs, homes and industry. In conclusion, I strongly support the amendment moved by my colleague the member for Jagajaga, which states:

... “the House:

(1) refuses the Bill a second reading, because of the Howard Government’s:

(a) continuing arrogant approach imposing a nuclear waste dump on the people of the Northern Territory without proper scientific assessment and consultation processes;

(b) broken election commitments to not locate a waste dump in the Northern Territory;

(c) overriding of many Federal, State and Territory legal protections, rights and safeguards;

(d) destruction of any recourse to procedural fairness provisions for anyone wishing to challenge the Minister’s de-
cision to impose a waste dump on the people of the Northern Territory;
(e) continuing and aggravated disregard of the International Atomic Energy Commission’s recommendations on good social practices like consultation and transparency in relation to nuclear waste;
(f) failure to deliver a national waste repository after ten long years in government, and,
(2) in light of the Howard Government’s imposition of a nuclear waste dump on the Northern Territory community, and the recent High Court decision in the Workchoices case, expresses deep concern that the Howard Government will override community objections and State and Territory laws to impose nuclear reactors and high level nuclear waste dumps on local communities across Australia”.

In conclusion, my concern over and above all of those things is for the welfare of the people of the Northern Territory, in particular its Indigenous people. They do not deserve to be treated like this and they should not be treated like this. It is yet another of this government’s policies of disregard for our Indigenous people and their heritage. I am very concerned for their future should this go ahead.

Mr WINDSOR (New England) (12.17 pm)—Some weeks ago the Prime Minister called for a debate within the broader electorate on nuclear energy. I think the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 presents the first opportunity for many members of parliament to actually make a contribution to the nuclear debate. I have listened to a lot of the people speaking to this particular amendment bill talking about various energy issues, even though they are slightly outside the scope of the bill, so I would like to take the opportunity to make a contribution in that vein if I may.

I listened with interest to the member for O’Connor’s speech earlier. He made some points about the generation of tidal power being used as a source of energy particularly in the Kimberley region. One comment of his that I thought was most appropriate was that using tidal energy, given the potential market for it from gas installations that are taking place, could in fact provide power equivalent to that from 2½ nuclear power plants. That gives us an insight, although we are not actually looking at this.

The Prime Minister and others in the parliament, mainly for objectives of short-term political gain through wedge politics, are looking at nuclear power as an issue that will help move the debate away from the problems that they confront with carbon emissions and emissions generally. But the member for O’Connor has given us this insight into some of the potential that is out there: the power of 2½ nuclear power plants—10 per cent of what the Prime Minister is talking about—could in fact be put in place by the use of the energy of natural forces, tidal forces.

I do not pretend to be an expert, but if we are looking at coming to grips with some of the global emission problems we need to note that there is no doubt about climate change. It has been recognised on the road to Damascus within the last month that climate change is a reality. It was not a few months ago, but apparently it is a reality now and I will accept that it is a reality. I think anybody that has seen Al Gore’s film would have thought three months ago that it was actually a cartoon. But what it says has now become somewhat of a reality or has been recognised as a reality in terms of global climate change, carbon emissions and the rest of it.

Even though the government has recognised that there is a global problem—the Prime Minister has recognised it, the Minis-
ter for Industry, Tourism and Resources has recognised it and the Treasurer has recognised it—that, in their view, the Kyoto protocol is not the way to go and that there are new and improved versions of how we get to utopian emission controls—and that involves clean-coal energy et cetera—I believe it is not addressing a number of issues. To bung on the nuclear debate because they cannot think of anything better to do is not only an insult to the ingenuity of our scientists and research people but almost an abuse of future generations of Australians. There is no way that I as a member of parliament will support 25 nuclear power stations in Australia when we do not have to go down that road. The member for O’Connor spoke of one alternative. People have spoken about solar and wind energy, about energy from natural forces. The industry minister talks about geosequestration. There is clean coal technology and a whole range of other technologies. But, for some reason, all of a sudden, with recognition on the road to Damascus of climate change, we have the nuclear debate lumped into this debate about how we produce clean energy for the future.

I think we all understand what is happening—and if people do not then they should have a look at what is currently happening in England and in other parts of the world—that is, this amendment bill is about the storage of radioactive waste. The storage is for generations—for thousands of years, and for anybody in this parliament to suggest that that will be safe for thousands of years is an insult to our intelligence. More importantly, in my view, it takes a great risk with future generations of Australians who have not been born. We are in a position, because we are alive, to make decisions about the living conditions of others in thousands of years. I think we should take that more seriously than the short-term wedge politics that are now being played out with this nuclear debate and the political impacts it may have on the Labor Party, the Greens or whoever happens to be wandering past at this moment.

This is a very important issue and it is a debate where the truth should be told about the long-term safety of storage of radioactive waste. No-one can give an absolute guarantee that a substance that is dangerous for thousands of years can in fact be guaranteed to be in safe keeping. Even if carbon credits and emission payments in some way bring nuclear energy closer to being more cost competitive with clean coal, I do not think those decisions should be made just on an economic basis.

We have had the absurd debate in this place on renewable fuels, and the logic of the government is almost staggering. An arrangement has been put in place whereby in 2011 the production of ethanol and biodiesel, for instance, will be used as a source of taxation revenue for the government. For the Prime Minister and others to now be suggesting in one breath that we have to encourage renewable energy, we have to look at clean coal, we may even have to look at some way of structuring the market so that clean coal becomes dearer and nuclear energy suddenly becomes competitive, and then in another breath to be saying, ‘By the way, if you move into the renewable energy market and start producing ethanol and biodiesel in 2011 we will use you as a source of revenue for taxation purposes,’ is an absurd juxtaposition with respect to policy.

We have done similar things before in this parliament in terms of policy—I have mentioned this before—but I congratulate the Treasurer. Remember that superannuation was about encouraging people to save for their retirement. It was recognised that we were going to have an older population and that, if we did not save on the way through, a worthy policy objective would have to be put
in place. As that was moving through the system Labor and Liberal governments decided to tax it—‘There’s a lump of money there, and these people are getting old and saving for their retirement; we’ll tax them on the way in, we’ll tax them while they’re there and we’ll tax them on the way out, and then we’ll also let all the superannuation brokers make a fortune on the way.’ That is an absurd message in terms of the original goal.

If we are really serious about renewable energies, why would we put in place a taxation regime in 2011 to tax them on their energy content? The government are comparing them to fossil fuels. If we are serious about renewable energy emission controls into the future and CO₂ sequestration—all these sorts of things—the taxation regime should be turned around so that it actually encourages those people to do those things. We have this absurd position where we are doing the opposite.

Just to give you another example, yesterday in this parliament the member for McMillan asked the Minister for Industry, Tourism and Resources a question, aimed again at wedge politics—all very good stuff. I will repeat the question:

... I got this question for the Minister for Industry, Tourism and Resources. Would the minister update the House on practical government initiatives to lower Australia’s greenhouse gas emissions?

And this is the minister who has suddenly recognised that climate change is upon us and that Al Gore’s movie was not a cartoon. The minister answered:

I acknowledge the hard work and support of the member for McMillan on our policies in relation to lowering greenhouse gas emissions. When it comes to practical measures and real results, there is no better example of those policies than the Low Emission Technology Demonstration Fund. Through this fund the federal government is now supporting five cutting-edge low-emission projects to the tune of $310 million. These projects cover a suite of technologies, from clean coal technology to renewable energy to coal seam methane—projects worth some $2 billion. On Friday, the Minister for the Environment and Heritage announced that the government would be supporting the world’s largest CO₂ sequestration project. At its peak, this Gorgon project will be burying some three million tonnes per annum of CO₂ every year off the coast of Western Australia.

That is new technology that the minister is talking about. He went on:

When this suite of technologies, demonstrated by the five projects, achieves its full potential, it is estimated that they could reduce Australia’s greenhouse gas emissions by around 50 million tonnes per year from 2030 …

What are we talking about nuclear energy for, when the minister, who had only a recent conversion, has been able to do that in a matter of weeks? Here we have to have this debate about 25 nuclear power plants because we want to have a little bit of a game with the Greens and the Labor Party. Much more important in my view—and, I think, in the view of the Australian public—is the longevity of the human race, not the longevity of the Liberal Party, the Greens or the Labor Party. I think we are all aware that the Independents will go on forever!

After a little bit of criticism of the Labor Party, the minister went on to say: ‘... while they ignore the opportunity to debate the potential for nuclear energy’. But the minister himself in the first part of his answer has given us the answer: we can ignore nuclear energy. We can achieve our Kyoto protocol emission controls through other areas. He has given us the answer. Then, at the bottom of his answer, he returns to the nuclear debate to create the wedge. I think it is pointless having this debate when we do not have to. If the Minister for Industry, Tourism and Resources, within a period of weeks, can put in place these various funds—and I con-
gratulate him: I think it is great and that more people should go to Damascus!—what can people, serious people like the member for O'Connor, do with tidal energy? What can we do with renewable fuels if we get serious about it?

The government has an MRET of 0.8 of one per cent of our petrol needs—350 million litres—by 2010. I think we are running at under 50 million litres now—and it is 2006, so 60 per cent of our time is gone. What could we do if we actually got serious about some of this rhetoric? There should be absolutely no need to talk about nuclear energy as an option when there are no guarantees that the waste can be protected for thousands of years and when we have solar energy, wind energy and renewable fuels that we have talked about earlier.

I was at a conference only last week in Canberra—the national carbon conference. A lot of the reason we are talking about nuclear energy again—other than the political reasons for doing it—is because of what we have done about carbon dioxide emissions into the atmosphere. Very few people have mentioned the potential in at least the short and medium term to store atmospheric carbon in perennial pastures and soils. We are here to talk about trees. Trees, in the short term at least, are emitters of carbon, then they start to take it up and, longer term, they emit again. With a combination of pastures and better land use management using what we in our region call no-till farming or conservation farming techniques, where you build up the organic humus matter in the soil, you can actually store carbon. Where is the research that is going on into that?

I asked the Prime Minister this question the other day: will he look at putting the farm sector on this carbon credits task force that he has put in place? Will he look at including the farmers in that debate? Because they could be part of the answer or the future research into perennial pastures and ways of building up organic matter or humus in the soil. That could be part of the answer. There are people who say it is not; there are scientists who say it is. There are trials in the United States at the moment where carbon credits are paid to farmers for sequestering carbon in their soils. I know there are problems with measuring, but these are the issues that we should be out there addressing. If there is a problem, let us solve it. If there is a question, let us answer it. But we seem to have gone past all of these natural options and straight to nuclear energy, because that is a short-term fix and we will not be here if there is a problem further down the track. I do not think that solves the problem at all.

I would ask the Prime Minister again to include the farm sector in the carbon credits task force, so that those people who are custodians of most of the land in Australia could be part of developing a market-driven structure so that we have cleaner energy and so that the emissions we produce are stored—some, as Minister Macfarlane says, well below the ocean or the earth; others may be stored in the top profile of the soil. We may change some of the land use management. We may have incentive payments that give carbon credits to the farm sector for storing carbon dioxide in the soil, as we are talking about doing in plantation forestry. There are many options out there.

In the renewable energy and renewable fuels debate, some government ministers quite often say that you cannot encourage ethanol and biodiesel because it would impact on the market. You cannot subsidise Australian production of ethanol from sugar or grain because it would be a blemish on the fuel market. What are they contemplating doing with clean coal emissions? They are penalising the coal producers in terms of carbon credits so that it will lift the price so
that nuclear energy can become viable. If that is not impeding the market, I do not know what is. I would agree with that impediment being placed on the market, because it develops a situation where the polluter pays and where those who are removing the problem get the credit. The market is working. But you cannot have, on the one hand, this burning ambition to develop an artificial market to take care of the carbon dioxide problem and then, on the other hand, say we cannot have biofuels in this nation because that would be seen as a blemish on capitalism. That is an absurd suggestion. (Time expired)

Ms JULIE BISHOP (Curtin—Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues) (12.37 pm)—I stated at the beginning of this debate that, in addition to the land hand-back, a purpose of the Commonwealth Radioactive Waste Management Legislation Amendment Bill 2006 is to prevent politically motivated challenges to a site nomination. The need for these provisions is as a result of the numerous threats by the Northern Territory government to oppose this government’s actions by using any means available, including legal challenges. Anti-nuclear green groups have also demonstrated a track record of taking legal action against government activities involving nuclear materials. None of these threats is based on any objective analysis of the safety of the planned waste facility. The safety and security of the facility are assured by the comprehensive and stringent Australian environmental and regulatory requirements that apply to it. Following completion of the scientific and technical works and presentation of a detailed assessment of any chosen site, people with a genuine belief that there are unresolved safety issues will have the opportunity to formally put their case to the independent regulators.

The act explicitly requires compliance with the Environment Protection and Biodiversity Conservation Act 1999 and the Australian Radiation Protection and Nuclear Safety Act 1998, which include requirements for public consultation to ensure that the waste facility complies with the highest standard of environmental protection and radiation safety. These threats of legal action are to stop the government getting to square one—that is, selecting a site to undergo full independent environmental and regulatory scrutiny. These threats are to stop Indigenous communities nominating their land for the facility, if they so wish. The allegation that this bill is about the government bullying the Northern Land Council into nominating a site is outrageous. Under the existing provisions of the act, the only way a nomination can be made is if a land council or the Northern Territory Chief Minister make it. It is an entirely voluntary process. This bill does not alter that requirement in any way.

With the assistance of my colleagues the member for Solomon and Senator Scullion, the original Commonwealth Radioactive Waste Management Bill was amended to allow land to be nominated for the waste facility. The Northern Land Council was supportive of the mechanism to allow this voluntary process. The Northern Land Council has indicated that there is interest amongst Aboriginal groups within its area in nominating land. Further, it has indicated that it is concerning for groups to permanently give up their freehold title to the land. This government is responding to those concerns in a sensible and constructive way. If those opposite consider that listening and responding to representations is the equivalent of bullying then I suggest that they need to raise their level of English comprehension.

The land councils have made it clear that they cannot and will not nominate Aboriginal land without the consent of the traditional
owners concerned. The Aboriginal Land Rights (Northern Territory) Act 1976 lists the functions of a land council as including consultation with the traditional owners of Aboriginal land with respect to any proposal relating to the use of that land. The suggestion that a council would act against the expressed wishes of its constituents is offensive to that council. I repeat my assurance to the House that, should a nomination be made, I will only accept it if I am satisfied that the criteria listed in the act have been met. What the government will not accept is speculative legal challenges that are designed not to ensure that Aboriginal people have given informed consent to a land nomination but to frustrate and delay the establishment of the facility.

We already have three potential sites on Defence land being investigated. If we do not receive a nomination, we will go ahead on one of those three sites. Of course, there is another important element of the bill which is largely overlooked in this debate. It is to ensure that, should a volunteer site be selected for the facility, there is a mechanism for the land to be returned to its original owners or successors when the site is no longer required for the facility. This can only be done with the consent of those wishing to receive their land back. The government would welcome the opportunity to sit down with the Indigenous community that, unlike most of those opposite, is prepared to take a mature and responsible approach to radioactive waste management.

Labor are in no position to criticise the Howard government for acting to put beyond doubt the Commonwealth’s power for the safe and secure management of Commonwealth radioactive waste given their own failure to establish suitable radioactive waste management and facilities in their 13 years in office. The Australian government have had to take responsibility for waste management due to the state governments’ ideological and ‘not in my backyard’ approach to this issue. The states are all happy to benefit from the radioisotopes produced by ANSTO for the treatment of cancer and other life-threatening illnesses, but they refuse to take responsibility for the disposal of the waste that is a consequence of the production of nuclear medicines. So the question remains: what would a Labor government do with Australia’s radioactive waste? Would they store it in a safe and responsible manner? Where would they store it? What is their policy on this issue? It is time the Labor Party stopped their hysterical scaremongering and politicking on this important national issue. I commend this bill to the House.

Question put:
That the words proposed to be omitted (Ms Macklin’s amendment) stand part of the question.

The House divided. [12.49 pm]

(The Deputy Speaker—Hon. BK Bishop)

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AYES

Question agreed to.

The DEPUTY SPEAKER (Hon. BK Bishop)—The question now is that the bill be read a second time.

Question put.

The House divided. [12.55 pm]

(The Deputy Speaker—Hon. BK Bishop)

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Question agreed to.

Bill read a second time.

Third Reading

Ms JULIE BISHOP (Curtin—Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues) (12.57 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

DEFENCE LEGISLATION AMENDMENT BILL 2006

Second Reading

Debate resumed from 14 September, on motion by Mr Billson:

That this bill be now read a second time.

Mr McCLELLAND (Barton) (12.57 pm)—The Defence Legislation Amendment Bill 2006 is a further instalment of the government’s response to the report of the Senate Foreign Affairs, Defence and Trade References Committee on the effectiveness of Australia’s military justice system. That report was tabled in June 2005, some 16 months ago. The government’s response to the report came about one year ago. It is perhaps regrettable that this response, in the form of this bill, has taken that period of time to come before the House.

The bill makes three principle amendments to the Defence Force Discipline Act. First, it creates the Australian Military Court. Second, it creates military juries. Third, it creates a power for the Chief of the Defence Force to set up what is titled a ‘Chief of Defence Force commission of inquiry’, which I will explain a little further in the course of my contribution. The bill also provides for changed appeal provisions, categorises offences for the purpose of trial and makes a number of other consequential amendments, including transitional arrangements.

Regarding the attitude of the opposition to the bill, we should state that our general position is that, while we recognise the proposed legislation at this stage is an improvement on the current state of affairs, it is far from adequate in the structural changes that it proposes. In particular, fundamentally there is a significant gap between the government’s response to the Senate committee report and the committee’s actual recommendations. At the heart of this is the government’s acceptance of the view that the
military justice system should remain within the defence hierarchy and not be removed to a civilian model as the committee recommended. In other words, we have perpetuated a situation where the military judges the military or, as commentators have said, where Caesar judges Caesar.

The committee’s unanimous all-party view was that reform was essential. Until the essential reform of making the military justice system truly independent—that is, outside the chain of military command—the system will remain compromised or at least apparently biased in perception and perhaps unfair and will continue to fail those who seek justice. The bill does not achieve that separation. In fact, this bill is not the groundbreaking reform that the government claims.

That, by the way, is also the view of the Senate committee. Government members have pressured the minister to significantly amend the bill. We note and we recognise the government has made significant amendments that have been provided to the opposition today. We respect the fact that the government has at least apparently shown respect to some of the recommendations of the committee. Obviously we have not had the opportunity to examine the full extent of those amendments in the time available.

While we will not be standing in the way of the amendments passing through the House today, we reserve our right to examine the amendments in greater detail and respond appropriately in the Senate by rejecting them, amending them or proposing our own amendments to more closely reflect the recommendations of the committee.

As I indicated, the amendments that we have seen do address some of the issues, but, as a matter of principle, that structural separation between the military judging the military and what we advocate—that is, a complete separation so that the justice system is and is perceived to be fair and independent—has not been achieved. The simple reason for Labor’s opposition is that the so-called ‘new system’ remains part of the military hierarchy, staffed by military personnel and without any of the attributes which denote proper systems of justice in the modern world. The use of the word ‘independent’ by the minister to describe the new system is, with the greatest respect, simply wrong; it is nothing of the kind.

The bottom line is that the government wants no systematic reform to military justice and appears happy to fudge the edges so that the dysfunctional system will effectively remain in place. As a result, Australia’s fine men and women in the Australian Defence Force will continue to endure a system of justice which is less than the community standard. We believe they deserve nothing less than the community standard that the majority of Australians have an entitlement to.

It is important to understand the committee’s recommendations for a military court, to look at those recommendations in some detail and to compare them to the legislation that has been presented. In brief, the committee was critical of the current system for a number of very good reasons. The committee agreed that the control of the exercise of discipline in the ADF is an essential part of the chain of command. But it also said that acceptance of that was not unconditional, there had to be a balance and there was none in the current system. To quote from the committee report:

The weaknesses in the system, described in submissions and evidence … evident in crossjurisdictional comparison, identified in academic writings, and highlighted in recent Australian judicial decisions, all suggest that current structures are adversely affecting the rights of Service personnel.
That is the committee’s unanimous comment, which should not be lightly disregarded. Fundamental to the point the committee made was the fact that the system of justice available to ADF personnel, compared with that available to each member of Australian society, is dramatically inconsistent. To quote again from the committee:

In an era where open and accountable governance is increasingly demanded by the citizenry, all arms of Government must be seen to deliver rigorous, fair and impartial outcomes—the military justice system should not be exempt.

Again, from a common-sense point of view, none of us would cavil at that comment. In fact, there is no end of quotations from the committee which, by implication, oppose the government’s model insofar as it does not achieve that separation.

I will now deal with the key elements, starting with the military court. The proposed court replaces the current disciplinary tribunals—that is, the processes of court martials and defence magistrate trials. Given the perceived bias, compromise, unfairness and abuse of individual rights entailed in the old system, the Senate committee recommended that a new military court be established of similar nature to those established under chapter III of the Australian Constitution. As such, the court would be established outside the chain of command and would operate in the same way as the civil court, with independently appointed judges in the standard manner considering all evidence fairly with all due process. Judges would be drawn from experienced and well-qualified legal people in the community. Defence experience would be a secondary criterion to judicial expertise. As such, they would have similar security of tenure to other civil judges and would be appointed by the Governor-General. In short, the committee could see no reason for such a court to retain any trappings of the military.

However, in the second paragraph of the explanatory memorandum, it is wrongly asserted that the provision in this bill—that is, the government’s proposal—is the direct implementation of the committee’s recommendation. It is nothing of the sort. While the Senate committee did recommend the creation of a military court within the DFDA, it was certainly nothing like the one proposed in this bill. In fact, the government’s proposal differs little from the system of court martial and Defence Force magistrate that it purports to replace.

The model proposed in the bill does the following: It creates the military court within the Defence Discipline Act. Its judges must be serving officers of legal experience. Terms of appointment are only for five years. Reappointment will only occur in exceptional circumstances. On the conclusion of their term, judges are to be compulsorily retired. If they reach retiring age during the term they are also disqualified. Part-time judges are not allowed to engage in any other employment outside their duties. If a judge no longer meets his or her individual service deployment requirements they may be dismissed. Nominees are put to the minister for appointment by a departmental committee. The chief military judge is to be of a rank no lower than one-star general, which is equivalent to the DMP and the Registrar. A military judge is to be of no lower rank than commander or equivalent. Finally, staffing resources are to be supplied from the defence members and public servants employed under the Public Service Act.

We do note, as I have mentioned, that amendments will be moved by the government today to modify these proposals to some degree, but in no way, shape or form is this body anything like a civilian court that non-serving members of the Australian community are entitled to access when seeking redress for a grievance or when defend-
ing their rights or defending themselves against an alleged impropriety. In particular, there is no way that this model can be described as independent. Clearly, it is part and parcel of the chain of command. The minister’s fine words change nothing. Indeed, as the Judge Advocate General of the ADF has stated in evidence to the Senate committee:

This court looks like a tribunal.

We agree. The assertion contained in the explanatory memorandum is just presentational nonsense. The consequences, however, are very serious. Again, as the Judge Advocate points out in his evidence to the committee:

The court will have complete and exclusive Australian jurisdiction over members of the ADF outside Australia. Given the present and likely future tempo of operations and exercises, it is entirely foreseeable, if not likely, that there will be charges of the most serious offences such as rape and murder against members of the ADF at some stage. The AMC would be the only court which would have jurisdiction. The notion that such charges would be dealt with by a body described as a tribunal is extraordinary.

We agree with that. He said:

The bill represents a wasted opportunity to establish a military court with proper independence and status.

Labor’s view is that, if this court is to remain, it should have its jurisdiction limited to military service disciplinary matters where it is perhaps appropriate to have a tribunal functioning but not in respect of those serious matters, particularly matters of criminality to which I have referred. As a minimum it should not preside over civilian criminal offences committed overseas. The Law Council of Australia is equally scathing in its criticism of the proposed court—not just for legal reasons but also for practical reasons—and its impact on recruitment, retention and the strong perception of lack of independence.

In legal terms there has long been a debate about the authority of military tribunals. They have been challenged in the High Court for their lack of jurisdictional independence and impartiality. The view expressed by the Judge Advocate General is that the closer such a tribunal can be aligned to the arrangements for a court established under chapter III of the Constitution the less likely that a court or tribunal will be subject to challenge. The statement is significant, as we know that there are currently new applications challenging the authority of the current system in the High Court. The pity is that, if the government had accepted the committee’s recommendations for a military court akin to those established under chapter III of the Constitution, this doubt would have been avoided.

The warnings of the Judge Advocate General and the Law Council in respect of recruitment and retention have also been dismissed by government. With respect, that is extremely short-sighted. In other words, if the parents of a young person contemplating military life are yet to be convinced that their child will have the same rights as any other private citizen to address their grievances or defend their rights, they are going to be less inclined to permit their child to enlist in the defence forces. One can only wonder as to the extent to which the poor state of military justice has been a disincentive to recruitment. Indeed, those dissatisfied with the redress of their grievances have ultimately left the service of the defence forces as a result of the inadequacy of the current system.

Apart from the strong concern about perception of bias within the chain of command, which is blindingly obvious, the key question is: who would want to be a military judge under the current arrangements? Skilled and experienced legal people will be very difficult to recruit under these arrangements. There will be a high turnover and continuing
loss of skill and experience. Judges inevitably will be of a lower standard than those of civilian society and there will be the inevitable perception of compromise because of their status as serving officers. There will obviously be exceptions. There are and will continue to be incredibly decent and competent and talented people who will put themselves forward for service, but by and large I think the quality of people who will present for service on this new court will not be equivalent to the quality of those in civilian society and there will certainly continue to be the perception of bias.

Yet the rhetoric and the gloss of the minister’s speech would have us believe differently. Astoundingly, the minister has told us that these judges and the court will no longer be within the chain of command. The minister asserts that the implications for their independence will thereby be removed. To quote the Judge Advocate General, again by way of response:

... it is now proposed ... that the military judges will have even less independence, so far as their terms of appointment are concerned, than they have under the existing arrangements. ... To now move to five-year renewable terms, which are not automatic ... considerably reduces the actual and perceived independence of the judges ... and greatly impedes the AMC’s ability to develop experience and excellence.

For the record, Labor wants all these limitations removed so that military judges are appointed and removed by the same process as all other judges. Again, we will be looking at the amendments to see if they achieve that. The final criticism is that the court is not a court of record. Again, this detracts from the status of the court as a genuine court and judicial authority. This shortcoming is a serious one, particularly as the court is supposed to be independent. Its decisions are appellable and its powers are substantial, including the power to punish for contempt. Labor believes, in summary, that it is essential that the court be a court of record. If that does not occur, the losers will again be serving members of our defence forces.

The bill also provides for the use of military juries comprising six serving personnel of no lesser rank than the accused, with a decision by a majority of four. The positive value of this proposal is that at least there are to be jury facilities with the sole role of determining guilt on the facts; we recognise that that is a forward step. As we know, trial by jury is widely accepted as a necessary safeguard to individual liberty and is, in fact, protected by section 80 of the Constitution. These military juries, however, are less onerous in their formation than civilian juries, particularly for indictable offences; we see that as a serious inconsistency. Neither the explanatory memorandum nor the second reading speech of the Minister Assisting the Minister for Defence provides any justification for that difference. We note that this was also a reservation of the Senate Standing Committee for the Scrutiny of Bills.

Further, these differences were also subject to criticism by the Judge Advocate General who, in his recent annual report, said:

... it is desirable that these points of difference be limited to those ... [offences] ... which are essential for the proper functioning of the military justice system.

That is why, quite simply, Labor senators, in their dissenting remarks in the Senate committee’s report on the bill, recommended that, for criminal trials overseas at least, juries equivalent to civilian standards be used. We note the amendments to be moved today again modify these arrangements to some degree and we intend to have a careful look at those amendments to assess their adequacy before responding in detail in the Senate.
Another issue is the Chief of Defence Force commission of inquiry. This in fact does have something to recommend it, in that such inquiries will be mandatory and the appointees who conduct them will be civilians. This would appear to be somewhat of a contradiction to the hardline attitude that the government has taken on the military court, where only ADF personnel can serve. So what is it about the CDF commission which is so different as to permit independence from the chain of command? It would seem at least that the frequent tragic deaths by suicide of young people in particular has hit home. So it should. If this is a personal expression by the Chief of the Defence Force of his commitment to fix the problem—and we accept his genuineness in his statements—then we are pleased that it has been reflected in this proposal.

While we support this proposal because it is a step in the right direction, it does raise the question as to why the principle has not been followed across the legislation. It is a great pity the initiative was not taken many years ago. In the last decade, 79 ADF personnel have taken their own lives. That is obviously both appalling and distressing, yet we know so little of the causes, except that bullying and harassment seem to be common elements. Having an improved system of investigation by a truly independent body is a good start. Beyond that measure, however, it is difficult to see any other changes that are for the better.

Unfortunately, that culture of bullying and harassment still appears to be entrenched in the culture of at least lower ranks—we recognise the genuineness of the senior ranks of the military—and not enough is being done to arrest that culture. For example, of those 79 suicides to which I have referred, no disciplinary action was ever taken against a single person. This is perhaps further evidence of the link between a failed military justice system and failed discipline. The government would like us to think that the evil of bullying has been exorcised. There have been some media reports suggesting that that has been the case. We recognise, certainly at senior levels, that there has been a desire to stamp out the culture, but it is far from a satisfactory situation.

It has not been long since the death of Trooper Lawrence from heatstroke in the Northern Territory last year, on which no action was taken against any individual. The coroner found the death to be the result of negligence; Comcare is suing Defence for the maximum penalty under the Commonwealth occupational health and safety law but, again, no individual has been held accountable. So, while a truly independent inquiry process is a welcome improvement, in the end, the result may be no different unless there is a commitment to follow through with appropriate action.

In fact, as some have speculated publicly in recent days, it is a pity this provision was not in place in time for the inquiry into the death of Private Kovco. In particular, we have seen criticism by the mother of the late Private Kovco regarding the process that was adopted in this inquiry into her son’s death. However, this proposal is also subject to some serious criticism from the Law Council, again unheeded by the government. The Law Council’s view is that, if this provision is to be entrenched through regulation, there may be undesirable consequences. The Law Council believes that, given the seriousness of this provision, the essential provisions should be in this bill and not in regulations. We agree with that.

There may also be practical considerations which have been overlooked. First, it is not considered practical to have such an inquiry into every death in the ADF—including road accidents, which we accept. We note that the
The Law Council includes suicides in that category. It must be noted that we do take issue with the Law Council there. We believe suicide to be of such significance that there should in each and every case of suicide be an appropriate inquiry. Finally, the Law Council is concerned at the availability of civilian judges to conduct what could be up to 40 inquiries a year when the demands on the judicial system are already very high. The council has suggested that there may be a wider pool of senior counsel to draw upon. We also recognise that as a sensible recommendation.

Regarding the government’s defence mythology, we note that the government’s justification for the bill and its provisions are set out in the explanatory memorandum. The philosophy is, quite frankly, based in centuries past. With respect to the appointment of judges, the government said, ‘A knowledge and background in the military environment and culture is required.’ With the greatest respect, we think that is no longer a relevant proposition.

Those in command have been brought up to believe that, once in the forces, the normal civilian rules of behaviour, proper process and civil rights do not apply, and that is unacceptable. It is the very culture they seek to preserve which in many ways is at the heart of some of the terrible problems that we have seen in the military justice system. For many, that is why there has been no justice at all, with tremendous distress being caused to families. This obsession with the difference of military life to civilian life is one of the great myths which are continually promulgated to deny access to the rights and fair, independent process guaranteed to all non-military members of our community.

The natural consequence of these assertions is that a failed military justice system must result in a failed system of military discipline. We would not like to think that was true, but, as the Senate committee found, there is plenty of evidence. For example, in recent times the government admitted that there were 88 cases of proved sexual harassment in the ADF in 2004-05. The most severe punishment that we saw was a compulsory posting. This is quite obviously grossly inadequate and certainly below that which could be expected in a civilian society. Certainly any victim of that harassment would have expected much stronger action.

So, again, these measures are in many ways—if you look at it in that context—virtually a charade to prop up a compromised and defective system, where again we see a perpetuation of Caesar judging Caesar.

The next bald assertion made to support this bill is that ‘the AMC must be deployable and be able to sit in theatre and on operations’. Again, this statement is questionable. A military tribunal sitting overseas is a rarity. It is claimed, for instance, that military preparedness requirements and the physical demands of sitting in an operational environment require such a military focused court. Frankly, to keep perpetuating this nonsense is an insult. We are told in paragraph 4 of the explanatory memorandum, for instance, that the AMC must have credibility with the Defence Force. Again, to what extent does it have credibility with the Defence Force when members of the Defence Force cannot be satisfied of its impartiality?

The final part of the guiding philosophy for these changes is that the judges appointed will, as serving members, be subject to military discipline, including the need for training. In other words, judges are part of the system, not independent of it. These assertions are nothing but mythology. They in themselves are no justification for the legislation—and, as we have argued, the legislation in and of itself does not change a thing for the quality of military justice.
changes are basically a very thin veneer designed to demonstrate a lot of activity, wrapped up in empty but fine sounding words, but ultimately are preserving and sustaining a failed system. For those reasons, I move the second reading amendment circulated in my name:

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

“while not declining a second reading for this Bill, the House believes that as the provisions for the establishment of an Australian Military Court are not in line with Chapter 3 of the Constitution as recommended by the Senate Foreign Affairs, Defence and Trade References Committee report of June 2005, and as the appointments to the court and juries are restricted to serving military personnel, the new court can never be separate from the chain of command and the provisions of the Bill therefore maintain the longstanding unsatisfactory compromise which denies the true independence, fairness and objectivity essential for the proper functioning of the military justice system”.

Mr LINDSAY (Herbert) (1.27 pm)—I come to this debate on the Defence Legislation Amendment Bill 2006 with some knowledge of the Australian Defence Force and its men and women. I represent Australia’s largest Army base. I represent a community that has two brigades—3rd Brigade and 11th Brigade. I represent a community that has three battalions, multiple regiments and the Royal Australian Air Force. I mix quite widely with all ranks of the Australian Defence Force.

The bill before the House today is one that the senior commanders of the ADF focus on. It is not something that the lower ranks ever mention to you. There has been long frustration within our senior command ranks in relation to the military justice system. There has been a lot of effort and time consumed which really did not need to be consumed in addressing the issues that have happened in the past in relation to military justice. Certainly, it is another issue in relation to the offences that have been committed from time to time—the silly things that have happened, the things that frustrate our commanders that should never happen and the things that tend to reduce confidence in the professionalism of the Defence Force. Thankfully, only a very small number of people are involved in this, because it takes a lot of the time of our senior commanders, right up to the chiefs of the services, to deal with these particular matters which should never have happened.

It was very much in the nation’s interests that we had a Senate inquiry into the effectiveness of Australia’s military justice system. That inquiry has subsequently reported. Out of that inquiry came the proposal to establish a permanent court, to be known as the Australian Military Court. It will replace the current system of courts martial and Defence Force magistrates under the Defence Force Discipline Act.

There has been some concern expressed by the opposition, but I am not hearing that concern from serving members of the Australian Defence Force. I heard the member for Barton express a concern in relation to the independence of the proposed new court. My response to that would be: does anyone really believe that judges appointed to the court would not operate in an independent way? Does anyone really believe that they would allow their professionalism to come under scrutiny? I do not. I do not think anybody else does. I think judges in our community who join the Australian Military Court will be professional people, as they are in the public sector. They would not allow their independence to be questioned by anybody. We have a very fine tradition in our legal system in Australia in relation to this. I also point out that if any judge did allow their independence to be questioned then the community and the military would soon
know about it. I do not share the concern of the member for Barton.

The member for Barton also said that he felt there would be difficulty in recruiting judges. Again, that is not my experience. I have seen a very fine law officer from Townsville, a senior judge, appointed into the military. Another senior judge asked me, ‘How do I go about being considered for the Australian Military Court?’ These are senior judges with many years experience who want to be on the Australian Military Court. If that is the case in Townsville, that will be the case elsewhere in the country. I find it hard to share that concern of the member for Barton.

There are some key points in this legislation; for example, a safeguard such that a military judge will not be eligible for promotion except where the promotion is to enable the person to be appointed to Chief Military Judge—a sensible point. We will see a military jury of peers at a rank not less than the person being charged, which I am pleased to say the member for Barton has supported. There will be two classes of juries, depending on which particular offences are being dealt with. There will also be a reviewing authority for an automatic right of appeal from a summary authority to the AMC. There will also be an appeals process which will provide that an offender may appeal a conviction and/or punishment. The Director of Military Prosecutions may also appeal against a punishment.

The bill before the House is a significant element of the overall program of enhancing the military justice system, of having a robust system that will serve the Australian military forces in an independent and impartial way. Certainly the chain of command will not be able to interfere in the operations of the court.

The government will also be required to make consequential amendments to Defence and other portfolio legislation, for which policy approval has been sought from the Attorney-General and from the Minister for Immigration and Multicultural Affairs. In relation to remuneration of judges—an important point—provisions have been included in the bill to preclude a judge or magistrate from a federal, state or territory court appointed as a part-time or acting military judge from receiving remuneration under the DFDA if they receive salary or annual allowances by virtue of their judicial office—a double-dipping provision. I do not think anyone would have any difficulty whatsoever with the common sense of that particular provision. The other element which was important to consider was that, given that the AMC is a federal court and if the term of employment for 10 years is approved, there is an unintended consequence which would see military judges being eligible for pensions under the Judges’ Pensions Act in addition to the military pension that applies to all Defence Force members. That anomaly will be corrected through an amendment of the Judges’ Pensions Act 1968 to prevent the payment of pensions to military judges under that act.

I indicated to the parliament that members of the Australian Defence Force with whom I have had contact are quite happy with this proposal. They see that it will work well for the Defence Force, that it will work well for those who appear before the court and for those who have been aggrieved by the person appearing under charge before the court. Therefore, I am able to confidently support this particular legislation.

In closing, I will use one minute of my time to recognise the wonderful service that the men and women of the Australian Defence Force give to this nation—in particular, the wonderful service that the men and
women of the Australian Defence Force in Townsville have been providing through service in the Solomon Islands, Afghanistan, Iraq, East Timor, Lebanon and the Sinai. It is very much appreciated. If there is to be a coup in Fiji, it is the men and women of the Australian Defence Force in Townsville who are currently somewhere in the South-West Pacific who will be ready to be available to do what needs to be done in the nation’s interests. Of course the men and women of the Australian Defence Force are always available to do that. I compliment the serving men and women. Townsville will certainly continue to provide a very effective ready deployment force for our country.

Mr EDWARDS (Cowan) (1.39 pm)—I support the amendment moved by the member for Barton. Indeed, I congratulate him on a very well-considered, well-balanced contribution to the second reading debate on the Defence Legislation Amendment Bill 2006. I commend the things that he has had to say to members.

I am disappointed that, after having made his contribution, the member for Herbert has left the chamber already, because there were a couple of issues that I really wanted to take up with him. He said that members of the ADF, particularly around Townsville, with whom he has had contact are happy with this proposal and generally happy with military justice the way it is. My understanding of the member for Herbert is that he spends a heck of a lot of his time in the officers mess. I really urge him to get out of the officers mess and to go down and talk to some of the diggers and to some of the senior NCOs and listen to some of the stories that they have to tell about military justice.

The member for Herbert is right when he praises the work, the professionalism, the courage and the dedication of members of the ADF, whether they are serving in Australia, Afghanistan or Iraq—or wherever else it is that they may be deployed. He is right: they do provide Australia with a great service and this service is recognised by our allies. I think it is more broadly recognised, too, that military justice in Australia needs to be dragged into this century, just the same as it has been for the allies that we so often serve with—the Americans, the British and the Canadians. Our ADF members, our young men and women who serve on deployment with these allies, are entitled to the same levels of military justice and to the same levels of fairness within the justice system that our allies receive, but so often they do not.

You only have to look at some of the inquiries that have gone on in recent years that have been generated because of concerns about our military justice. Some of these have been identified in the Senate report that was handed down last June, including the 2002-03 WA Coroner’s investigation of the HMAS Westralia fire; the 2001 Burchett QC inquiry into military justice in the ADF; the 2001 Joint Standing Committee on Foreign Affairs, Defence and Trade’s Rough justice? inquiry into allegations of brutality in the Army’s parachute battalion; the 1999 Joint Standing Committee on Foreign Affairs, Defence and Trade military justice procedures in the ADF inquiry; the 1998 Commonwealth Ombudsman’s own motion investigation into how the ADF responds to allegations of serious incidents and offences; and the 1997 Abadee study into the judicial system under the Defence Force Discipline Act, which Justice Abadee began in 1995.

Each of these inquiries, as the Senate report points out, ‘has identified, to a greater or lesser degree, shortcomings in the military justice system’. The report makes this statement about the various inquiries:

Against this background of almost ten years of rolling inquiries into the military justice system, the Chief of the Defence Force (CDF) recently
expressed his view that ‘The military justice system is sound, even if it has sometimes not been applied as well as we would like ... I have every confidence that on the whole the military justice system is effective and serves the interests of the nation and of the Defence Force and its people’.

It is interesting that the committee report notes that ‘the committee cannot with confidence agree with this assessment’. In this report they were obviously talking about the recently retired CDF, General Cosgrove, a man for whom I have an immense respect. But I recently read General Cosgrove’s book, entitled *My Story*. In his book, which is worth a read, he complains about the process of some of these inquiries, and he is obviously far from happy with the outcomes. He said that in his view, and I paraphrase him, ‘The process of these inquiries has sometimes been unfair to the ADF’ and that these inquiries ‘unjustly reflected on the processes of the ADF’. That is just a rough paraphrase of what he had to say.

That is his view, and I think General Cosgrove is certainly entitled to hold that view. But I take a different view—that is, military justice in this day of deployment to so many parts of the world, in the current environment where justice has moved on within the community, seems not to have moved on within the ADF. Indeed it has stalled and is a cumbersome beast within the ADF; and it certainly does not always look after or provide fairness and justice to members of the ADF. I recognise that there is a reluctance at the senior officer level within the ADF to accept that and to listen to voices such as that of Robert McClelland or those of those who were involved in this Senate inquiry. It is a pity that the minister himself has through this legislation not better responded to some of the recommendations made by the Senate committee.

As a member of the House of Representatives I greatly dislike having to sit by and watch a rubber stamp applied in this place and seeing legislation simply pushed through to the Senate. That is what will happen here: the very good amendment moved by the ALP spokesman on Defence will not get up—it should but it will not. So I call on the Senate to properly review this legislation, to consider the amendment moved by the ALP in this place and to measure the legislation before us today against what was recommended and proposed and what was covered and investigated in that 2005 report of the Senate Foreign Affairs, Defence and Trade References Committee. If they do that, and do it fairly and with open minds, they will see that this legislation falls far short of what they recommended. What is worse is that some of the proposals in here are simply unworkable and will not serve military justice well in this country, nor will they serve those members of the ADF who from time to time have been caught up in the unfairness and injustice of this military justice system. Let’s look at some of the things that the Senate committee identified during their investigations into military justice. On page 11 of the committee’s report they list a number of the problems and issues that they say, quite rightly, should lead to changes in military justice. I will list some of them:

- inordinate delay in investigation of alleged offences—in some cases investigations have gone on for several years;
- poor quality investigation of alleged offences—such as inappropriate questioning of civilian family members, failure to check easily obtainable exculpatory evidence, failure to liaise closely with civilian agencies;
- lack of independence in the investigation of alleged offences;
- failure to obtain and/or act on Australian Federal Police (AFP) and DPP advice;
- lack of independence in the decision to prosecute;
- poor quality prosecution of alleged offences;
inordinate delay in the decision to prosecute;
inordinate delay in the trial process;
lack of independence in the trial process;
lack of impartiality in the trial process; and
inordinate delay in the review of trial process.

The member for Herbert said that the people he talks to in Townsville are happy with military justice. I do not know who he is talking to, and that is why I have suggested to him, and why indeed I urge him, to get out of the officers mess and go and talk to the other ranks and hear what they have to say, because page 51 of the Senate report notes:

For ten years now, there have been increasing calls from servicemen and women and their families that all is not well in the military justice system. Repeated inquiries have resulted in piecemeal change but some fundamental principles remain unchallenged. The serious issues raised in the 150 plus submissions made to this committee—including by extremely senior ranks of the military—make it plain that wholesale review and reform of the principles underpinning the current system of military justice is now required.

What we see today is more of the same. It is more of that piecemeal approach. Although this legislation does make some improvements—and that is why the ALP will support the legislation—it falls short of the overall reforms it should have made. It falls short of what it should have done. That is why I think there is a very strong requirement for the Senate to address its task, to refer back to this very good report and to measure the expectations of this report against what we actually see in legislation. And I hope that they might have a good look at the amendments put forward by the member for Barton, because really this legislation does need improvement.

I was involved in bringing to the House some years ago the case of a warrant officer, along with other members of his patrol, was involved in an ambush which required some fairly quick and fairly robust response. This warrant officer returned fire, and the patrol withdrew from the place of the ambush, bringing with them a couple of the bodies that they had killed. To cut a long story short, this warrant officer was subsequently charged with kicking those bodies, a charge which ultimately he was found to have been innocent of. But the investigation and the threat that hung over the head of this very dedicated and professional soldier created incredible stress and pressure for this man and for his family.

The investigations into this man went on for years. He was at one stage threatened with being charged with murder. He was pulled off deployment when the troops that he had been training were deployed to Iraq. He was told: ‘Because of these charges, you can’t go with your men.’ That single thing was nearly enough to destroy him, because he had a very close bond with them and he had trained these men for a period of time. Because of these charges, he was pulled off deployment.

It took a long time for this man to get justice, and he only got justice in the end because two senators took up his cause and went in to bat for him. But eventually, some years after he was charged, some years after he was subjected to incredible pressures and stress, the army put out a press release, with Lieutenant General Leahy—and I congratulated him at the time—publicly apologising to this man. Part of the press release said this:

The Army acknowledged that errors had been made during the investigation and prosecution of an Australian Interfet soldier charged with kicking two dead bodies in East Timor in 1999 ...
“These were serious allegations that needed to be pursued vigorously. The soldier was found not guilty on all charges.”

“I acknowledge there were organisational failures such as the length of the investigation. I also acknowledge problems with the quality of statements taken from witnesses and with Army press releases.” …

The Inquiry Officer found that the soldier’s complaints were substantiated. He concluded that the military police investigation was deficient in a number of respects and had taken too long. The administrative action taken against the soldier, of which he was also found not guilty, while possible under current policy, in this case, on reflection would have been best not taken.

We heard the member for Herbert say that, in his contacts, the members of the ADF are happy with what they have. But what he has told the House today stands in stark contrast to the experiences of that senior special services soldier. It stands in stark contrast to what General Leahy himself said in that press release. It stands in stark contrast to the evidence that was put before the Senate inquiry and in stark contrast to what many family members of serving ADF personnel have put before the inquiry.

I will just say once again: this legislation, while I acknowledge it as having some improvements, falls short of the requirement for this government to accept its responsibilities and to have brought forward a piece of legislation that did recognise the need for justice and the need for fairness for our members of the ADF as they go about doing a very professional job under very many demanding circumstances in many parts of the world. The government could have done better with this legislation, and it should have done better.

The SPEAKER—Order! It being almost 2 pm, the debate is interrupted in accordance with standing order 97. The debate may be resumed at a later hour.
Cancer Vaccine

Mrs MOYLAN (2.02 pm)—My question is to the Minister for Health and Ageing. Would the minister please advise the House of steps the government is taking to protect women from cervical cancer and how this will assist Australian women, particularly women in my electorate of Pearce?

Mr ABBOTT—I thank the member for Pearce for her question and I appreciate how concerned she is and, indeed, all women in this House are about this issue. I am very pleased to inform her and the House that the government has decided to place the cervical cancer vaccine on the National Immunisation Program at a cost of some $436 million over four years. This is great news for the women of Australia. It is another win for the women of Australia delivered to them by the Howard government. Each year cervical cancer kills about 270 Australian women. Mortality rates have reduced by over 50 per cent over the past two decades. But there is now a chance to do more, thanks to the Gardasil vaccine developed by the Australian of the Year, Professor Ian Fraser. The vaccine prevents the virus that causes about 70 per cent of cervical cancer cases. From April next year, Gardasil will be on the National Immunisation Program on an ongoing basis for 12- to 13-year-old girls. For two years there will be a school based catch-up program for girls aged up to 18, and a GP based program for women aged up to 26.

There are two important points I should make. Firstly, vaccinated women will still need regular pap smears, because this vaccine will not prevent all forms of cervical cancer. Secondly, the Pharmaceutical Benefits Advisory Committee expedited its reconsideration because of the logistics of a mainly school based roll-out but it otherwise applied standard cost-effectiveness criteria to its recommendation. I want to congratulate the Pharmaceutical Benefits Advisory Committee for its guardianship of Australia’s drug and vaccine system. I would also like to thank senior officials of my department, particularly the Secretary, Jane Halton, and the First Assistant Secretary, Rosemary Huxtable, for securing good value for taxpayers as well as a very good deal for the women of Australia.

Oil for Food Program

Mr BEAZLEY (2.03 pm)—With your indulgence, Mr Speaker: can I state on behalf of the opposition that we are very glad that women are going to get access to this vaccine—the result of the splendid work done by a great Australian scientist. It is a very good outcome. My question is to the Minister for Foreign Affairs. Minister, given your confirmation of this finding by the Cole commission, which states:

By June 2004 DFAT was aware that AWB’s wheat prices had included costs associated with transportation of wheat within Iraq, that AWB claimed to have retained and paid money to a Jordanian trucking company in relation to transportation within Iraq, and that AWB had conceded that the Jordanian company might of its own volition have provided kickbacks to the regime ...

which I might say is an unqualified statement, on what basis did the minister direct his department three months later, on the eve of the Australian federal election, to tell the US Senate that, in relation to the allegations against AWB—and recollect what that finding was—the Australian government rejected the allegations entirely and that—I again quote from the instructions—‘I again quote from the instructions—it unequivocally dismissed the allegations’?

Mr DOWNER—I am sorry, the honourable Leader of the Opposition says ‘without qualification’. He includes in the quote the qualification ‘of its own volition’—that is, it is perfectly clear that Commissioner Cole is not alleging at that point that the Department
of Foreign Affairs and Trade knew that AWB were paying kickbacks. That is obvious.

Point No. 2: if the Leader of the Opposition would only read the report, he makes that clear in the conclusion he draws. The Leader of the Opposition claims he has read the report. It is yet another example of the Leader of the Opposition misleading this parliament. Of course the Leader of the Opposition has not read the report, because if he were to read the report he would find that two or so pages further on the commissioner draws his conclusions, and his conclusions are that the department did not know. The Leader of the Opposition can spend the whole of question time and the whole of the rest of his time as the Leader of the Opposition—which may not be very long—trying to establish that Commissioner Cole concluded that the department knew; but, frankly, the department did not know and the Leader of the Opposition’s attempts to slur the reputation of officials of my department are reprehensible.

DISTINGUISHED VISITORS

The SPEAKER (2.08 pm)—I inform the House that we have present in the gallery this afternoon members of a parliamentary delegation from the Republic of Indonesia. On behalf of the House, I extend to our visitors a very warm welcome.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Business Regulation

Mr CADMAN (2.08 pm)—My question is addressed to the Prime Minister. Would the Prime Minister advise the House how increased business regulation in New South Wales will damage the Australian economy. Is the Prime Minister aware of plans to introduce similar regulations across Australia?

Mr HOWARD—I can inform the member for Mitchell of my concern, based on a report in the *Australian Financial Review* this morning, that the New South Wales government is going to require businesses that sign New South Wales government contracts valued at $3.4 billion a year to agree to several union-friendly provisions. These provisions include a union right of entry into any workplace at any time and for any reason, including the recruitment of members. It is reported by the *Financial Review* that if companies breach these conditions they lose the government contracts and are excluded from tendering for any contracts in the future. This, if implemented, would be a return to the dark old days of ultradomination by unions in Australian workplaces.

This is a glimpse into the future if Labor governed from coast to coast in Australia and governed also in Canberra. It would be a recipe for a return to the days when the unions ran the economy. That, of course, is still the gleam in the eye of Mr Greg Combet, the Secretary of the ACTU, who said that there used to be a day when the unions ran Australia and it would not be a bad idea if we went back to it. I think it would be a very bad thing if we went back to the days when the unions ran this country, and what the Iemma government is reported as proposing in New South Wales is nothing more than a return to old-fashioned union thuggery and intimidation. It would represent bad regulation that would drive business away from New South Wales and, if it were repeated around Australia, would do a great deal to pull back the strong economic performance of this country of which the OECD reported so glowingly overnight.

Oil for Food Program

Mr RUDD (2.11 pm)—My question is again to the Minister for Foreign Affairs. I refer to the statement overnight by the Republican head of the US Senate inquiry investigating corruption under the UN oil for
food program, Senator Coleman, that the US Senate would now reopen its investigation into AWB’s dealings with Iraq and in Senator Coleman’s words:

Another major concern is whether Australian officials were less than honest. We will examine the report to ensure that no one lied to this sub-committee.

Will the minister guarantee to the Australian parliament that when Australian officials told the US Senate in September-October 2004 that the Australian government rejected the allegations against the AWB entirely and unequivocally dismissed the allegations concerning the AWB those officials did not mislead the US Senate?

Mr DOWNER—As it happens, I make two observations. The first is the observation the Prime Minister makes—that it is the character of the Australian Labor Party always to stick up for foreign interests against Australia. On this side of the House, we are on the side of Australia—

Mr Kerr interjecting—

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

The member for Denison then left the chamber.

Mr DOWNER—The second observation I make is that Senator Coleman, whom I spoke to personally at the end of September about these matters, expressed the view to me in that conversation we had in New York that the Australian government, unlike other countries which had been mentioned in the Volcker report, had done precisely the right thing to set up a commission of inquiry into this whole matter. The third observation I would make is that I appreciate the honourable member asking about Senator Coleman, because on 27 November this is what he said: ‘I “formally” applaud the efforts of the Cole commission, which examined the facts in a thorough and comprehensive manner.’

Opposition members interjecting—

Mr DOWNER—This is what Senator Coleman said. You may not like Senator Coleman. He said:

My subcommittee will review the Cole report with a fine-tooth comb to determine whether US interests were hurt by AWB’s gross misconduct.

The point I make is that, by setting up the Cole inquiry and subjecting officials to the fine-tooth comb, with all of the documents produced and made public, with public hearings and a long list, of course, of painful appearances by officials before the Cole commission—and many of the officials of my department, not surprisingly, did find it a very painful experience—we have been applauded by Senator Coleman for doing that. This, I think, casts Australia in a very good light—a point that Commissioner Cole himself made. The final point I would make is that the member for Griffith accuses an official of my department of lying. This official was Peter Baxter. He did not lie; he told the truth.

Mr Rudd—Mr Speaker, I rise on a point order. Under the standing orders, I asked the minister to guarantee that in fact officials had not misled the Senate; I did not accuse that official of lying.

The SPEAKER—The member for Griffith will resume his seat! That is not a point of order.

Economy

Mr RICHARDSON (2.15 pm)—My question is addressed to the Treasurer. Will the Treasurer inform the House of the results of the latest OECD Economic Outlook? What is the OECD’s assessment of the Australian economy?

Mr COSTELLO—I thank the honourable member for Kingston for his question.
Overnight the Paris based OECD released its latest assessment of the Australian economy. It was a very positive assessment of Australia and its prospects. The OECD forecasts real GDP to grow 2.6 per cent in calendar year 2006 and to pick up to three per cent in calendar year 2007 and 3.4 per cent in 2008, although it notes that growth could well be held back by the effects of the drought.

The OECD expects growth to rebalance over this period, with domestic demand easing and business investment moderating but foreign demand to contribute more to growth through increased export volumes. The OECD expects Australia’s strong labour market performance to continue, with an unemployment rate forecast to remain around five per cent or lower. It also sees inflation easing after the effects of recent petrol and fruit price increases passing through the system.

What gives Australia great strength, of course, is the government’s fiscal position, the government now having delivered nine surplus budgets and having repaid in total $96 billion of Labor Party debt. As the OECD notes, the general government surplus probably surprised on the upside but net government debt has recently been eliminated. That puts Australia in a very small class of countries around the world that are carrying no central government debt. Our debt to GDP ratio is zero. The OECD average is around 40 or 50 per cent. If we were at the OECD average on a debt to GDP ratio we would be carrying $500 billion worth of debt. But in fact we are carrying zero. The benefits of repairing Australia’s fiscal position have given this country great strength. This great strength was brought by disciplined economic management, the kind of economic management that the coalition stands for.

Mr ALBANESE (2.18 pm)—My question is to the Prime Minister. Does the Prime Minister recall that in November 2003 the government promised to give the Murray River 500 gigalitres within five years under the Living Murray First Step program? Up until the beginning of this month, three years after this announcement, how much water has been returned to the Murray River as a result of the government’s Living Murray initiative? Prime Minister, isn’t the answer to this question, according to the Living Murray website, zero—not a single drop? Prime Minister, isn’t there more water in this glass than you have returned to the Murray?

Mr HOWARD—I thank the member for Grayndler for such a riveting question! I would have thought that it was impossible for any Australian, let alone a member of the Australian parliament, not to know we are in the worst drought in 100 years. I find it incomprehensible.

Mr Crean interjecting—

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

Mr HOWARD—But as you have invited me to talk about the Murray, if there is one government amongst the partner governments of the Murray-Darling Basin Commission—

Ms Plibersek—Why did you make the promise?

The SPEAKER—Order! The member for Sydney!

Mr HOWARD—that has delivered beyond what it promised, it is the Commonwealth government, because not only have we delivered the hundreds of millions of dollars we agreed with the premiers that we would deliver back in 2004 but, in the last budget, without being required under any of
the intergovernmental agreements to do so, we put another $500 million in.

I pray for rain every day and I hope the member for Grayndler does, but it is a bit hard to meet aspirations about returning water to the Murray River when it does not rain. If the member for Grayndler has access to a solution to this problem, I am prepared to amend the opinion I currently have of him. If he is a rainmaker—if he has powers beyond what anybody on this side of the House ever thought he had—I am prepared to say I am totally wrong, I am prepared to apologise to him, I am prepared to say that he is a genius.

Ms Plibersek interjecting—

The SPEAKER—The member for Sydney is warned!

Mr HOWARD—I am prepared to say all of these things. That is about the most stupid question you have ever asked.

Mr Albanese—I seek leave to table the relevant pages of the Living Murray website, which show that the government has not delivered a drop to the Murray.

Leave granted.

Government members interjecting—

Mr Albanese—I’ll get under your skin, bonehead!

The SPEAKER—The member for Grayndler is warned!

Workplace Relations

Miss JACKIE KELLY (2.22 pm)—My question is addressed to the Minister for Employment and Workplace Relations. Is the minister aware of union members giving misleading campaign material opposing the government’s workplace reforms out in the workplaces, at community events and, most worryingly, to schoolchildren? What is the minister’s response?

Mr ANDREWS—I thank the member for Lindsay for her question. In answering it, I note that the unemployment rate in Lindsay, in the western suburbs of Sydney, has fallen from 7.3 per cent when the Howard government was elected to just 4.3 per cent today. In answer to the question of the honourable member for Lindsay, yes, I am aware of, in particular, teachers in New South Wales schools who have been providing political campaign material to young students to act as a postbox for their parents. This anti-Work-Choices pamphlet which has been distributed in schools in New South Wales by the teachers union is clearly inappropriate material to be given to children as young as kindergarten and grade 1 through to grade 6.

What we have here is a blatant example of the unions in New South Wales seeking to politicise the school system in New South Wales by providing this material to children as young as prep in schools in New South Wales. It is this sort of behaviour by the teachers union in New South Wales which is part of the reason the Prime Minister said this week that parents are increasingly voting with their feet and moving from the public school system into the independent school system.

Ms Plibersek interjecting—

The SPEAKER—The member for Sydney has already been warned. She continues to interject. She will remove herself under standing order 94(a).

The member for Sydney then left the chamber.

Mr ANDREWS—I imagine the outcry if I sent a letter to schools in New South Wales to be distributed to school students in which it outlined all the lies which Unions NSW had been uttering about Work Choices. There would be complete outrage from the other side in this place if that were to happen. The New South Wales Minister for Education and Training, Carmel Tebbutt, may not know what Australia Day is, but can I say to her
that this sort of activity is inappropriate on any day in schools in New South Wales. It is totally inappropriate.

Tomorrow, teachers across Australia will in some cases close schools down so that they can attend, during a school day, rallies in relation to the anti-Work-Choices campaign by the unions in this country. I say: if the teachers and the union in Australia believe that this campaign is so important, why don’t they do it on a day on which they do not have to close down schools in this country? The use of young students as a postal service to their parents is outrageous behaviour on the part of unions in New South Wales. They have been caught out once again peddling untruthful statements about Work Choices, and parents in New South Wales will once again be concerned about this radical influence in the New South Wales teachers union as such, to engage in outrageous behaviour such as this. I call upon the Leader of the Opposition. He should stand up here at this dispatch box and condemn this sort of behaviour on the part of unions in New South Wales and the teachers union in particular.

Workplace Relations

Mr BEAZLEY (2.26 pm)—My question is to the Prime Minister. Isn’t it the case that, under the government’s industrial relations legislation, award conditions like penalty rates, shift and overtime loadings, allowances, annual leave loadings, public holidays and incentive based payments and bonuses cannot be guaranteed and can be removed from AWAs without the need for any compensation?

Mr HOWARD—The Leader of the Opposition’s question reminds me of a phrase I have used in recent months: my guarantee is my record. The reality of delivery is the greatest guarantee you can have. There were all sorts of guarantees in the workplace legislation of this country when the Leader of the Opposition was employment minister, but that did not guarantee that unemployment did not go to over one million Australians. The only way you can guarantee jobs for Australians, falling unemployment and rising real wages is to run a strong economy. One of the ways you run a strong economy is to have productivity industrial laws.

Mr Beazley—Mr Speaker, I rise on a point of order. The answer is babbling and it is irrelevant. Why will he not answer a very simple question?

The SPEAKER—The Leader of the Opposition will come to his point of order, not
debate it. The Prime Minister was asked a question about employment and the Prime Minister is answering the question.

Mr Howard—I simply say to the Leader of the Opposition that he made all of these allegations when the legislation was brought in. He said wages would be driven down. He said unemployment would go up. He said strikes would break out. The Leader of the Opposition has been wrong, wrong, wrong about all of those allegations and his interpretation of our laws is completely and totally without foundation.

Rural and Regional Australia: Government Programs

Mr Anderson (2.30 pm)—My question is addressed to the Deputy Prime Minister and Minister for Transport and Regional Services. Minister, would you inform the House how the government is helping regional areas create jobs, particularly in the context of the crippling drought that we are seeing at the moment, and new industries, particularly with reference to my electorate of Gwydir?

Mr Vaile—I thank the member for Gwydir for his question, and I certainly recognise the great work that he has done in representing the interests of regional Australia and in putting in place many of the programs that are there now with an adequate level of funding to support economic development and enhancement in regional Australia. As he points out, this is at a time of particularly severe economic stress for those areas of Australia affected by the worst drought that we have ever had.

Talking about that particular issue, yesterday I had the pleasure and the honour, along with the member for Gwydir, to announce a $3.4 million grant for the Back o’ Bourke project. It has been going through the system for some time. The Back o’ Bourke Exhibition Centre is being funded under this government’s Sustainable Regions Program. This program has been well received in those areas across Australia that we have targeted to assist regional industries and regional bodies to expand and develop.

In fact, I met with a number of ACC chairs today who have been asking about the possibility of the extension of the Sustainable Regions Program. It is a program that has delivered around $100 million to 266 projects through eight regions in Australia—regions identified as needing specific assistance from the government. Of course, Bourke, which is part of the member for Gwydir’s electorate, is one of those regions. It was good to help with the funding to complete the final stage of the Back o’ Bourke Exhibition Centre. The centre will act as a major tourism icon for that part of New South Wales, telling 500 years of environmental and social history of the Darling River. This is very important given the focus that we as a nation should increasingly have on our history.

It is one of the programs assisting regional Australia, but there are others that the member for Gwydir would be well aware of. In all of those programs we have seen that, for every dollar spent by the Commonwealth government, the local community organisations and local government bodies spend $2. So there is $3 being spent on the ground for every one that we make available. They are significant investments in regional Australia; they are helping to strengthen and bolster those regional communities and their economies.

Add to that other programs that are broadly targeted at helping regional economies, like the Roads to Recovery program, which I mentioned yesterday, and that the Australian local government authorities are very appreciative of the work that is being done with that funding—about $2 billion
over four years going from the Commonwealth government directly to local government. That never happened in the history of the Commonwealth until this government was elected to office. Local government had to always rely on rates and state governments, but state governments in Australia today are withdrawing their support for local government. The Commonwealth has had to step in to ensure that regional infrastructure is kept up to scratch, that we are able to maintain our competitive edge and our efficiency.

Of course, the member for Gwydir played a significant role in the establishment of the program—a program, by the way, that the Leader of the Opposition referred to at one stage as a ‘boondoggle’. As I said yesterday, every single local government representative in Australia would disagree with him on that point because they want that program continued.

The point is that we are focusing on ensuring that we maintain our level of support, particularly during the worst drought this nation has ever had in regional Australia. The exceptional circumstances measures that we have announced for drought affected areas have been very well received because they are well targeted. The message to regional communities across Australia—and I know the member for Gwydir will relay this message to his regional communities—is that the coalition government will always stand beside them to ensure that our regional economy plays a significant role in securing the strength of our national economy.

DISTINGUISHED VISITORS

The SPEAKER (2.35 pm)—I inform the House that we have present in the gallery this afternoon members of a delegation from the Chinese People’s Political Consultative Conference of the People’s Republic of China, accompanied by the Chinese ambassador. On behalf of the House I extend a very warm welcome to our visitors.

Honourable members—Hear, hear!

QUESTIONS WITHOUT NOTICE

Industrial Relations

Mr STEPHEN SMITH (2.35 pm)—My question is to the Prime Minister. Prime Minister, isn’t it the case that the government’s own statistics released in May show that under the government’s industrial relations legislation 16 per cent of AWAs remove all protected award conditions in full, 27 per cent remove public holiday loadings, 29 per cent remove rest breaks, 52 per cent remove shift loadings, 63 per cent remove penalty rates, 64 per cent remove leave loadings and 100 per cent remove at least one of the above? Prime Minister, isn’t this why the government now refuses to release up-to-date statistical information on these protected award conditions cut from AWAs and why the Prime Minister refuses to guarantee that no worker will be worse off under his legislation?

Mr HOWARD—I thank the member for Perth. He has made a welcome reappearance. We have not heard a lot from the member for Perth for the last month or so, but it is nice to have him back from the interchange bench. What I think the member for Perth fails to appreciate and acknowledge in his question is that, long before WorkChoices was introduced, there were often arrangements whereby increases in salary were granted in lieu of some of the matters to which he has referred.

Ms Owens interjecting

The SPEAKER—Order! The member for Parramatta!

Mr HOWARD—If you are going to have a proper analysis of how people are treated, you have to look at aggregate wage outcomes. As I keep reminding the member for
Perth, wages continue to rise, people continue to have jobs, unemployment continues to fall—

Ms Gillard interjecting—

The SPEAKER—The member for Lalor is warned!

Mr HOWARD—and the number of strikes continues to diminish. The world does not come to an end. I know you are sad and unhappy. I know you are devastated. It didn’t quite work out as you had hoped, but the Australian people, as every week goes by, know that your crowd have been running a phoney scare campaign about Work Choices. They are awake to you. They will increasingly realise how you have tried to dupe them and they will know, as the months go by, that the best friend the workers of Australia have are the Liberal and National parties.

Interest Rates

Mr SLIPPER (2.38 pm)—My question is to the Treasurer. Would the Treasurer outline for the House recent developments in the property market? What effects do interest rates have on rentals?

Mr COSTELLO—The ANZ Property Outlook reports that CBD markets are tightening and vacancy rates are falling in the cities. In Sydney, prime office rentals have now reached over $500 per square metre. In Brisbane, rentals have now reached over $400 per square metre. In Canberra, office rentals have now reached over $300 per square metre. But there is one building in Canberra that does not have a rental of $300 per square metre, or $400 per square metre, or $500 per square metre. There is a building in Canberra which has a rental of $1,100 per square metre. The ALP’s Centenary House has a higher rent than rents in the West End of London, a higher rent than rents in Tokyo and a higher rent than rents in mid-town New York.

Mr Brendan O’Connor interjecting—

The SPEAKER—Order!

Mr COSTELLO—The new owner of Centenary House reports today that—

Mr Brendan O’Connor interjecting—

The SPEAKER—The member for Gorton is warned!

Mr COSTELLO—when that lease—the lease which the ALP negotiated—returns to market in 2008, the current rental of $1,100 per square metre will fall to the market rate of $385 per square metre. In 2008 it will fall to a third of its current value. It is also estimated that this non-commercial rent has now creamed off $42 million from the Australian taxpayer for the Australian Labor Party. In 2004, when ALP Secretary Bob Hogg was asked why they had to negotiate such a rental for ALP Centenary House, he said that they had to have a high rental ‘because high interest rates in the early 1990s led us to lock in a 10-year rate deal with the banks at 13 per cent’. In other words, they thought the Labor Party would remain in office, so they locked in at 13 per cent, and because they locked in at 13 per cent they had to go above market—market being $385—to $1,100 a square metre.

Members of the House will know that recently I have been keeping company with rock stars. Last week I had a meeting with Bono. Earlier in the year I met Australian rock stars such as Athol Guy of the Seekers. I also familiarised myself with another rock star, who played with a band called Midnight Oil. I leave to Midnight Oil the last word on the $42 million of creamed-off rent. It is the lyrics of a song called Beds are Burning. Have a listen to this:

Opposition members—Sing it for us!

The SPEAKER—Order!

Mr COSTELLO—Have a listen to the lyrics:
The time has come to say fair’s fair
To pay the rent
To pay our share
The time has come—

Honourable members interjecting—

The SPEAKER—Order! The Treasurer will resume his seat.

Mr COSTELLO—It goes on:

A fact’s a fact—

The SPEAKER—The Treasurer will resume his seat!

Mr Snowdon—He’s no Australian Idol, that’s for sure!

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

The member for Lingiari then left the chamber.

Mr Albanese—Mr Speaker, I take a point of order. With respect to your actions against the member for Lingiari, all of us were enjoying the performance by the Treasurer. It was light-hearted, in the good spirit of the parliament, and the member for Lingiari gets tossed out, and his constituents—

The SPEAKER—The member for Grayndler will not reflect—

Mr Albanese—I might add that this is a song about reconciliation. He probably doesn’t know.

The SPEAKER—The member for Grayndler will resume his seat.

Mr Albanese—It’s about land rights.

The SPEAKER—The member for Grayndler will resume his seat. The member for Grayndler raised a point of order. He would be aware that the chair was on his feet and the member for Lingiari continued to interject. The Treasurer will conclude his answer.

Mr COSTELLO—The lyrics go:

The time has come
To say fair’s fair
To pay the rent
To pay our share
The time has come
A fact’s a fact
It belongs to them
Let’s give it back

Mr Speaker, the $42 million belongs to the Australian taxpayer. Let the ALP give it back.

Honourable members interjecting—

The SPEAKER—Members are holding up their own question time.

Workplace Relations

Mr BEAZLEY (2.44 pm)—With your indulgence, Mr Speaker, I think the member for Wentworth has seriously disturbed the Treasurer’s mind.

The SPEAKER—The Leader of the Opposition will come to his question.

Mr BEAZLEY—My question is to the Prime Minister. Can the Prime Minister guarantee that no individual Commonwealth Bank employee will be worse off as a result of the introduction of the Commonwealth Bank Australian workplace agreement offered to employees on 9 October and made public today?

Mr HOWARD—As I indicated more than a year ago when the debate on Work Choices started, I was going to maintain the position that the best guarantee that anybody can give in relation to these matters is one’s record. I do not intend to depart from that in answer to the question, but I am willing to say something about the Commonwealth Bank agreement. Contrary to the suggestions made by Mr Combet and also by some spokesman for the Labor Party, the Commonwealth Bank has been offering AWAs since 1997 and I understand that several thousand employees
of the Commonwealth Bank are employed on AWAs, which is their choice. I understand that the latest version of the Commonwealth Bank AWA makes some changes to the hours of work provisions to increase the ability to address customer needs, including opening branches on the weekend—something that I am sure most customers would support.

In relation to Saturday work, the Commonwealth Bank operates these branches at present on a volunteer basis and, for the 755 staff required to operate the 65 branches on weekends, the bank has over 2,300 people willing to work. AWAs at the Commonwealth Bank are offered to some new staff and some existing staff as a choice. I am advised that new and existing staff can choose to remain on the collective agreement and the award if they choose not to sign an AWA. I repeat that: I am advised that new and existing staff can choose to remain on the collective agreement and the award—

Ms Bird interjecting—

The SPEAKER—Order! The member for Cunningham!

Mr HOWARD—if they choose not to sign an AWA.

Ms Bird interjecting—

The SPEAKER—The member for Parramatta is warned!

Mr HOWARD—I understand that the AWA example used in the media this morning, and I think also by Mr Combet and others, has a significant increase in the base rate of pay of 13 per cent with the potential to earn up to 10 per cent in performance bonus in 12 months time. The AWA does buy out several award conditions, but this has occurred since AWAs were introduced by the Commonwealth Bank in 1997. There is nothing new in this provision and I am advised that these particular AWAs would have been ones that could have been entered into under pre Work Choices law. In other words, the Leader of the Opposition has been caught out again. He joins the ranks of the now discredited member for Perth when it comes to matters relating to Work Choices. I know this is a prelude to the big rally—the rock concert—that is going to occur at the G tomorrow. Melbourne is a well-organised union city. It will get a crowd—we all understand that—but the right, sound-thinking people of Middle Australia know a fear campaign when they see it, and they are staring one in the face. Every day that goes by, the campaign of the Leader of the Opposition has less and less potency.

Ms Owens interjecting—

The SPEAKER—The member for Parramatta is warned!

Fiji

Dr WASHER (2.48 pm)—My question is addressed to the Minister for Foreign Affairs. Would the minister advise the House whether progress has been made following negotiations between the Fijian Prime Minister and the Fijian military commander during talks in New Zealand today?

Mr DOWNER—I thank the honourable member for Moore for his question and his interest. The current situation in Fiji does remain worrying and obviously the Australian government and other governments in the region urge a swift and peaceful resolution of the tensions—tensions which are clearly already having some impact on the vitally important tourism sector in Fiji. Today the New Zealand government hosted talks between the head of the Fijian military force, Commodore Bainimarama, and Prime Minister Qarase in Wellington. I congratulate the New Zealand government on using the opportunity of Commodore Bainimarama’s presence in New Zealand—which was for a christening of his grandchild—to bring together Commodore Bainimarama and the
Prime Minister. I understand that there was a very good discussion. My friend and colleague Winston Peters, the foreign minister of New Zealand, put out a press release in the last hour or so saying:

We welcome the positive character of the discussions and the constructive spirit that both Prime Minister Qarase and Commodore Bainimarama brought to the table.

Consultations will continue.

Both Commodore Bainimarama and the Prime Minister are in the process of returning to Fiji. It is the hope of the Australian government—and I know very much of the New Zealand government and I am sure other governments in the region—that this more constructive approach can continue for a good deal of time to come so that we can ensure that Fiji remains a stable country, a country welcoming of tourists, a democratic country and a country that upholds the rule of law.

Prime Minister Qarase has called a meeting on Friday of the Pacific Islands Forum foreign ministers to discuss this crisis and, of course, we will see what happens in that meeting on Friday morning. I think it is highly likely that the forum foreign ministers not only will support democratic processes and the rule of law in Fiji but also would like to see continual consultations over differences in Fiji and not see resort to any action which would be outside the rule of law. I hope that these differences will be resolved and that tensions will reduce. I am pleased the New Zealand government—as ever, a great partner of Australia’s in regional affairs—has taken the initiative it has. I think it has been a very helpful initiative and I hope that in time we will see a successful resolution of these problems in Fiji. But, in the meantime, let me remind the House that the situation in Fiji is very worrying and we, New Zealand and others are continuing to work for a successful resolution.

Workplace Relations

Mr STEPHEN SMITH (2.52 pm)—My question is to the Prime Minister. I refer the Prime Minister to his comments this morning about the Commonwealth Bank AWA. He said, ‘The AWA, I am told, does buy out several award conditions.’ That is a statement he repeated in his earlier answer. Isn’t it actually the case that the Commonwealth Bank Australian workplace agreement, not covered by the previous no disadvantage test and offered to employees in October this year, expressly excludes 46 award conditions, including—and I quote from page 1 of the schedule of the AWA, ‘protected award conditions excluded’: payment for working overtime, shift allowances, overtime, weekends and public holidays, annual leave loading, public holidays, minimum breaks, tea breaks, dry cleaning, allowances, meal allowances, meal breaks, breaks, basis of payment—

The SPEAKER—Order! I think the member for Perth has made his point. He will come to his question.

Mr STEPHEN SMITH—I am, Mr Speaker. The Prime Minister said there were several. There are 46 excluded. I am not proposing to list all of them.

The SPEAKER—I hope not.

Mr STEPHEN SMITH—but I am proposing to list a substantial number.

The SPEAKER—I think the member for Perth has listed a fair number. The member for Perth will come to his question.

Mr STEPHEN SMITH—On a point of order—

The SPEAKER—No. The member for Perth will just get on with his question.

Mr STEPHEN SMITH—Fine. Basis of payment, premises renovation allowance, travel between work and home—
The SPEAKER—The member for Perth has made his point. He does need to provide unlimited information.

Mr STEPHEN SMITH—I was proposing to make a point of order, if you want me to. I can either do the question or do the point of order.

The SPEAKER—I ask the member for Perth to come to his question.

Mr STEPHEN SMITH—Domestic travel, travel allowance, assistance for employees transferred long distances, transfer expenses—

The SPEAKER—The member for Perth will resume his seat.

Mr Bartlett—Mr Speaker, I rise on a point of order. Under standing order 91(d) and (e), the member opposite refuses to accept your authority, and I ask you to bring him to his question.

The SPEAKER—I thank the Chief Government Whip. He raises a valid point of order. I ask the member for Perth to come to his question.

Mr STEPHEN SMITH—I have my own point of order, Mr Speaker. Questions are asked in accordance with standing order 100 and page 540 of House of Representatives Practice. They state:
Questions must not be debated. I was not debating them. Also:
Questions must not contain ... arguments; I was not arguing. Also, questions must not contain comments—there were no comments. They must not contain opinions—there were no opinions. And they may not become lengthy speeches. It was not a speech.

The SPEAKER—I think on that last point the member for Perth is getting fairly close.

Mr STEPHEN SMITH—It is not a speech; it is a question.

The SPEAKER—I suggest that if the member for Perth wishes to ask his question he comes to his question. The member for Perth will come to his question.

Mr STEPHEN SMITH—with great reluctance, Mr Speaker. Prime Minister, isn’t this why you will not guarantee that no Commonwealth Bank employee will be worse off?

Mr HOWARD—I thank the member for Perth for that question. I have two responses. The first response is to read out to him a provision contained in the offer of an AWA by the bank. It contains this expression of choice:
If you are being offered employment by the Commonwealth Bank of Australia, you may elect to accept that employment on the terms of the Commonwealth Bank of Australia Employees Award 1999 and Commonwealth Bank of Australia Enterprise Bargaining Agreement 2002. You may obtain electronic access to a copy of these two documents.

Ms Kate Ellis interjecting—

The SPEAKER—The member for Adelaide is warned!

Mr HOWARD—in other words, what this demonstrates is—

Mr Beazley—And now we know!

Mr HOWARD—I do not think you know much about this. I do not think you know much at all. What this clause demonstrates very graphically and very directly is that these employees have a choice. They can either sign the AWA—and I will come to the contents of the AWA in a moment—or elect to be employed under the collective agreement and the enterprise bargaining agreement, both of which were formulated before Work Choices came into operation. In addition to that, it is not uncommon under workplace agreements that were approved prior to
the coming into operation of Work Choices for certain award conditions to be bought off with higher salaries. What is offered here is a classic full range. You can be employed either under the enterprise agreement or under an arrangement that enables you to trade away some conditions in return for the opportunity of earning a higher salary.

That is the kind of arrangement that millions of Australians want. That is why, by the time of the next election, almost one million Australians will be employed under Australian workplace agreements that give them opportunity and incentive, and why those one million Australians will not want the recipe for chaos and reduction in their living standards being offered by the Leader of the Opposition. We know who forced the Leader of the Opposition to give that commitment before the ALP state conference in New South Wales in June of this year. He will go along to one of the rallies tomorrow and they will cheer him to the rafters because he promised to do everything they asked of him.

Mr Albanese interjecting—

The SPEAKER—The member for Grayndler has already been warned!

Mr HOWARD—But what he has neglected to do is what one million Australians ask of him—and that is to have the choice to better themselves by signing an Australian workplace agreement. If I were the Leader of the Opposition, I would choose a million Australians ahead of the union bosses of this country.

Indigenous Affairs

Mr WAKELIN (2.59 pm)—My question is addressed to the Minister for Families, Community Services and Indigenous Affairs. Would the minister inform the House of the recent announcement encouraging senior Australians to volunteer their expertise to assist remote Indigenous communities?

Mr BROUGH—I thank the member for Grey for his question and his interest. The response has been nothing short of astounding. On Sunday at the National Seniors conference on the Gold Coast, I announced this initiative, in partnership with the National Seniors: to come together to provide the expertise, the wisdom, the life experience and the work experience that these people have to remote communities and work with them to build a better Australia. There were about 240 people there on that morning and, of those, 100 people signed up straight after—not gave an expression of interest but actually signed up—to go to remote communities, in what I would say is probably the most complete expression of genuine reconciliation: people with practical measures going to remote communities, learning from the First Australians and giving to them. Since Sunday, that number has already grown to 150. The range of skills of those people includes farming, marketing, teaching, accounting and nursing—worthwhile knowledge and understanding that will help in a practical way in those communities.

Two other things have occurred. We have insisted that, obviously, if people are going to go to these communities they will have to undertake not only police checks—as you would expect—but also cultural awareness training, so that they understand the circumstances and the life experience of the people that they are about to assist. Three people volunteered their time who are retired academics who have been teaching cultural awareness, to ensure that they provide that pro bono. Then a mobile home caravan manufacturer contacted National Seniors to say, ‘We’re so excited about this initiative that, for those who do not have their own form of house on their back—the grey nomads—we will assist and provide that.’ So it just shows that this is starting to snowball. It is getting great assistance across the country.
I would like to pass on one comment from a woman who lives in a remote community, Miriam Rose Baumann, who was here today. She is part of the NIC, the National Indigenous Council. She is a teacher—in fact, a principal—at a remote school in Daly River and she said, ‘I always believe Aboriginal people, youth and students, should be exposed to the wider community—getting kids to understand there is a wider world.’ She also said that schools definitely need assistance in teaching students how to read and write. I just want to congratulate her on the work she is doing.

And I take this opportunity to thank the National Indigenous Council—with whom many of my colleagues met today as part of our regular taskforce meetings—for the many accomplishments that they have helped the government to achieve, including the domestic violence and sexual abuse summit. They have encouraged us to do more work with youth as far as sports achievements are concerned, and a myriad of other things. The NIC have performed an invaluable role for the government and we thank them for it.

The opposition only has one idea in this—they recently put out a statement by their shadow minister and it was, basically, back to ATSIC. I find that a disappointing response. It is back to yesterday and a failed response. It did not help Australia. It will not help the Australian Aboriginals into the future.

I say to the members opposite, and particularly the members for Maribyrnong and Corio: I understand that shortly you will be looking for a new career; if you feel that you want to go out and give your time in remote Aboriginal communities, you will be appreciated. And I guess that, in the event that the Leader of the Opposition finds a little more time on his hands shortly, he would find that his efforts in such a place would be greatly appreciated—perhaps a little more than they are in this place.

Mr Bowen interjecting—

The SPEAKER—The member for Prospect is warned!

Workplace Relations

Mr STEPHEN SMITH (3.04 pm)—My question is again to the Prime Minister and again about the Commonwealth Bank AWA, and I refer to his previous answer where he said there was choice: choice between an old certified agreement—2002, I think the Prime Minister said—and an AWA which is not protected by the no disadvantage test and which—unlike what the Prime Minister says, that it buys out ‘several’ award conditions—excludes 46, including: travelling expenses, removal expenses, temporary accommodation expenses, transfer expenses, assistance for employees transferred long distances—

The SPEAKER—Order! The member for Perth will come to his question.

Mr STEPHEN SMITH—I am, Mr Speaker.

The SPEAKER—The member for Perth will come to his question.

Mr STEPHEN SMITH—telephone allowance, use of home telephone—

The SPEAKER—The member for Perth has made his point. He will come to his question.

Mr STEPHEN SMITH—Mr Speaker, I am asking—

The SPEAKER—The member for Perth will come to his question.

Mr STEPHEN SMITH—Mr Speaker, I am asking a question; it is entirely consistent with standing orders and I should be entitled to ask it.

The SPEAKER—The member for Perth would be well aware that it is not necessary to introduce material unless it is needed to
illustrate his point. Now that he has illustrated his point, he will come to his question or he will resume his seat.

Mr STEPHEN SMITH—The Prime Minister said ‘several’ and there are 46.

The SPEAKER—The member for Perth will come to his question.

Mr STEPHEN SMITH—Mr Speaker, are you ruling that I cannot conclude my question?

The SPEAKER—I have just asked the member for Perth to conclude his question.

Mr STEPHEN SMITH—In that case, Mr Speaker, if you are ruling that I cannot complete my question, I dissent from your ruling.

The SPEAKER—I would remind the member for Perth that I have not given a ruling.

Mr STEPHEN SMITH—Yes, you have. I will keep going, in that case.

The SPEAKER—I remind the member for Perth that I have asked him to come to his question. I have not given a ruling.

Mr STEPHEN SMITH—In that case, can I proceed on the basis that I can complete my question?

The SPEAKER—If the member for Perth wishes to complete his question then he will proceed.

Mr STEPHEN SMITH—Telephone allowance—on call, intersuburban travel allowance—

Mr Abbott—Mr Speaker, I raise a point of order. I can understand the embarrassment of the member for Perth, but he has moved dissent and he cannot withdraw that. He should now proceed with his dissent motion.

The SPEAKER—I remind the member for Perth that I have not given a ruling.

Mr STEPHEN SMITH—I said that if it was your ruling I move dissent.

The SPEAKER—The member for Perth cannot give a hypothetical. Therefore if he wishes to come straight to his question, he may do so; otherwise, he will resume his seat. The member for Perth will come straight to his question.

Mr STEPHEN SMITH—Telephone allowance—on call, intersuburban travel allowance, car allowance—

Mr Beazley—Mr Speaker, on a point of order: what is going on here is that the terms and conditions of employment that have been obviated by the AWA are being read out in the form of a question, which is perfectly within the constraints of standing order 100(d), which says that questions must not contain statements of facts unless they can be authenticated—which they can—and are strictly necessary to make the question intelligible, which obviously they are. The member for Perth is going through the list of entitlements that are being removed by the AWA. He is not putting epithets around it; he is not putting argument to it; he is going through the list. And that is part of the process of holding this place accountable.

The SPEAKER—I ruled that I had not, at that point, made a ruling. I have now asked the member for Perth to resume his seat and I am calling the next question. I call the honourable member for Perth.
Mr STEPHEN SMITH (Perth) (3.09 pm)—Mr Speaker, I move:

That the ruling be dissented from.

Mr Speaker, I move dissent from your ruling because question time is a time when the government is held accountable. Question time is a time when the opposition, on behalf of the Australian people, has the opportunity to hold the government to account. Today in question time we are seeking to hold to account the government and, in particular, the Prime Minister on industrial relations and the stripping of award conditions. The Prime Minister has refused to answer every question the Leader of the Opposition and I have asked. I made the point that on two occasions, once outside the House and once inside the House, the Prime Minister had said that several award conditions have been excluded. I made the point, from the AWA, that 46 conditions were excluded, and I put it to the Prime Minister. It was important, Mr Speaker, to go through that list—which you prevented me from doing—because that is the only way we can hold the Prime Minister to account. He will say anything, do anything or mislead us on anything when it comes to industrial relations. Every question put to him today he refused and failed to answer. You, Mr Speaker, failed to uphold the standing orders, because you failed to bring the Prime Minister to account.

The SPEAKER—Order! The member for Perth is moving a dissent motion, not a no-confidence motion.

Mr STEPHEN SMITH—And what I am saying is entirely consistent with a dissent motion. I was perfectly entitled to put the entire list of 46 conditions. In this House at question time the Prime Minister said that several award conditions were excluded. He avoided every question the Leader of the Opposition and I had put to him. I am perfectly entitled to make the point that, when the Prime Minister said ‘several’, he was being disingenuous. Here are the 46 conditions—some of them are replicated, so I will not read them out: performance payment, higher duty allowance, skill utilisation loading, relieving allowance, field staff duty allowance, on call allowance, interpreter allowance, district allowance, meal allowance, car allowance, inter-suburban travel allowance, telephone allowance (on call), telephone allowance (use of home telephone), travelling expenses, removal expenses, temporary accommodation expenses, transfer expenses, assistance for employees transferred long distances, travel allowance, domestic travel, travel between work and home, premises renovation allowance, basis of payment, payment for working overtime, breaks, shift allowances, meal breaks, meal allowances, overtime, weekends and public holidays, transport arrangements, annual leave loading, public holidays, allowances, dry cleaning, tea breaks and

It was not a lengthy speech. The basis of that quote from *House of Representatives Practice* is a ruling by Speaker John McLeay on 31 August 1966. He made the point that it is not about the length of the question; it is about whether the question contains a lengthy speech. Mr Speaker, throughout question time you failed to uphold the standing orders, because you failed to bring the Prime Minister to account.
minimum breaks. And there are a few more conditions that make up the 46 conditions at page 1 of the schedule 'Protected award conditions excluded'—I made the point that I was not proposing to read them all out—which can be found in the Commonwealth Bank AWA that was offered to employees of the Commonwealth Bank on 9 October 2006. The Prime Minister would have you believe that that is ‘several’.

The Prime Minister is also disingenuous and misleading in pretending that somehow this is just like the Commonwealth Bank 1997 AWA. What he will not tell the House is that the Commonwealth Bank 1997 AWA was, of course, protected by the so-called no disadvantage test—which goes right to the heart of the question that the Leader of the Opposition first asked him. The Leader of the Opposition asked, ‘Isn’t it the case that, under the government’s industrial relations legislation, award conditions like penalty rates, shift and overtime loadings, allowances, annual leave loading, public holidays, rest breaks and incentive based payments and bonuses can’t be guaranteed and can be removed without any compensation?’ The Prime Minister refused to answer the question. The Leader of the Opposition sought a ruling on a point of relevance. You ignored him, Mr Speaker, and you did not hold the Prime Minister to account; you allowed him to avoid answering the question. That is made worse by the fact that, when the government spent $55 million advertising its legislation, these conditions were all referred to as protected award conditions. We saw the big stamp ‘Protected by law’ on the adverts. Nothing could have been more disingenuous.

Then, Mr Speaker, I made the point to the Prime Minister that in May at Senate estimates the Office of the Employment Advocate indicated that 16 per cent of AWAs removed all protected award conditions in full, 27 per cent removed public holiday loadings, 29 per cent removed rest breaks, 52 per cent removed shiftwork loadings, 63 per cent removed penalty rates, 64 per cent removed leave loadings and 100 per cent removed at least one of the above. Again he failed or refused to answer the question and you did not hold him to account, and—

The SPEAKER—Order! The member for Perth will not reflect on the chair.

Mr STEPHEN SMITH—that is why your ruling needs to be dissented from. Mr Speaker, I am not reflecting on the chair; I am moving dissent from your ruling.

The SPEAKER—The member for Perth can move his dissent motion.

Mr STEPHEN SMITH—The Prime Minister, at a doorstop today, said that the Commonwealth Bank AWA bought out several award conditions. Well, 46 is not ‘several’. That is why I was entitled to ask my question in full and entitled to ask that question without interruption. You required me, on two separate occasions, to not complete that list. Completing that list, Mr Speaker, was entirely consistent with standing orders.

Question time is the only occasion in the House when the opposition has the opportunity to hold the government to account. When the government is not held to account, the Australian community suffer. What do we know about the Prime Minister and his industrial relations legislation? He will do anything, say anything, mislead on anything, hide anything or not disclose anything to avoid the adverse implications of his legislation. He tries to pretend that there is no adverse circumstance for take-home pay and conditions and that there is no adverse circumstance for penalty rates, leave loadings, shift allowances, public holiday penalty rates and the like. We had the opportunity in question time today to hold him to account and, because of your ruling, we were not able to avail ourselves of that opportunity. Your rul-
ing needs to be dissented from accordingly. It is absolutely essential, when the Prime Minister fails or refuses to give answers at question time, that the opposition be entitled to hold him to account.

Mr Speaker, my dissent from your ruling needs to be put in the context of question time. Since the House came back for this session on 8 August, we have found it increasingly difficult to hold the government to account because of the rulings that you have made, of which this is one. I did a calculation, with the help of the parliamentary research service, to find out in the course of question time how many warnings you had been issued and how many removals from the chamber there had been in accordance with standing order 94(a), because this is the context into which your ruling today falls. If I have got my calculation right as to today’s warnings and suspensions under standing order 94(a)—

Fran Bailey interjecting—

The SPEAKER—Order! The Minister for Small Business and Tourism!

Mr STEPHEN SMITH—since the House came back on 8 August, during question time there have been 247 warnings applied to this side of the House and the number of Labor removals from the chamber including the three today is 39.

Fran Bailey interjecting—

The SPEAKER—The Minister for Small Business and Tourism is warned!

Mr Albanese—You will have to adjust it.

Mr STEPHEN SMITH—I will just add one, Mr Speaker. So it is 247 warnings and 39 removals from the chamber for an hour under standing order 94(a). On the other side, on the government side, it is 29 warnings, including the one you have just given, Mr Speaker—28 plus one; the one you have just given—and coalition, or government, removals from the chamber under standing order 94(a): zero.

The SPEAKER—Again I remind the member for Perth he should not reflect on the chair.

Mr STEPHEN SMITH—I am not. So 247 warnings and 39 removals versus 29 and zero! Mr Speaker, that is the context into which your ruling my question out of order fell. Your ruling my question out of order enabled the government to avoid scrutiny and enabled the Prime Minister to again do anything, say anything, mislead on anything or blackguard anyone when they put the facts of his adverse industrial relations legislation to him. If you are so confident of it, Prime Minister, tip out the stats, tip out the details and let OEA put out now what they put out in May. You will not do it, because you know what you are engaged in is a wages race to the bottom. But don’t worry: whether it is in here or outside we will pursue you from now until election time. (Time expired)

The SPEAKER—Is the motion seconded?

Mr BEAZLEY (Brand—Leader of the Opposition) (3.19 pm)—Yes, it certainly is. Mr Speaker, this is the one part of the parliament in which we can actually hold the government, day-to-day, accountable. We are obliged to operate in accordance with standing orders, and we are obliged to operate in an environment in which you, as the Speaker, have to preside impartially over our activities here. You know very well that we have some considerable complaints that are reflected in the statistics that have been put forward by the member for Perth, when he moved this dissent motion, about the balance with which both sides of this House are treated. But one thing is absolutely clear in our standing orders, and it is this. When we put forward questions, we are allowed to incorporate within those questions factual
material necessary to make the question intelligible. We are not allowed to include arguments, inferences, imputations, insults, ironical expressions or hypothetical matter.

It happens that with this particular question the most devastating part of it is this. With regard to this A W A offer which has been offered to Commonwealth Bank employees, either to take it or to take an agreement settled in 2002 with a wage level now five years effectively out of date—so either to take that five years out of date collective agreement or this A W A—they are obliged to give various things up. We can stand up in this chamber and say that 38 or 46—or whatever the number is—entitlements can be removed and leave the question at that or we can read out those entitlements so the public can see quite clearly what ordinary, reasonable conditions that in their own places of employment they would understand they have access to are being removed from Commonwealth Bank employees who can either accept that or go back to a wage level established in 2002—no further agreements to that of a collective variety.

It would come as a surprise to many Australians to have read out to them that what would happen as a result of an A W A being signed up to is that it would remove performance payments, higher duty payments, skill utilisation loadings, relieving allowances, field staff duty allowances, on call allowances, first aid allowances, interpreter allowances, district allowances, meal allowances, car allowances, intersuburban travel allowances, telephone allowances (on call), telephone allowances (use of home telephone), travelling expenses, removal expenses, temporary accommodation expenses, transfer expenses, assistance for employees transferring long distances, travel allowance, domestic travel, travel between work and home, premises renovation allowances, basis of payment, payment for working overtime, breaks, shift allowances, meal breaks, meal allowances, overtime, weekend and public holidays, transport arrangements, annual leave loadings, public holidays, dry cleaning, tea breaks and minimum breaks.

Many people out there listening to that would immediately make the assumption that heavy damage was being done to the rights and entitlements of Commonwealth Bank workers, and a mere upward adjustment of the 2002 pay rates of some 10 per cent might well not cover that, particularly when collective agreements now being signed up would contain that level of wage rise anyway, without dispensing with those allowances. For the public to understand the full effect of that, they actually have to have that list read out to them—there is no alternative, if there is to be that comprehension and if we are to get around the trickiness of this Prime Minister when he explains himself in this place. He is a very effective user of the last word in this place to slip, slide and exaggerate as he puts in place a piece of legislation that terminates the ordinary living conditions of the average Australian householder. The average Australian householder would be shocked if they realised that they were going to be obliged to give up overtime rates, meal allowances, weekend and public holiday arrangements, annual leave loadings, public holiday allowances and the like. That is why you have to be dissented from, Mr Speaker—so they can understand that.

Mr ABBOTT (Warringah—Leader of the House) (3.24 pm)—I know that the member for Perth is a great friend and supporter of the Leader of the Opposition, but I fear that what he has done today is to preside over the last rites of the opposition leader’s leadership. What we have heard today is the dying rattle of this leader’s leadership of the Australian Labor Party, and the fact that members opposite were almost completely indifferent to the speech—
Mr Edwards—Mr Speaker, I rise on a point of order. What has this to do with the motion before the chair? This is a serious motion. Obviously the Leader of the House is trying to avoid it.

The SPEAKER—The member for Cowan raises a valid point of order. I am sure the Leader of the House is aware that this is a dissent motion. I call the Leader of the House.

Mr Abbott—I am talking about the context in which this dissent motion has been moved and about the motive behind this dissent motion. What I am saying is every bit as much in order as the speeches of the member for Perth and the Leader of the Opposition. I repeat: what we are seeing is a Leader of the Opposition who is visibly dying on his feet, and he is being killed by well-meaning—

Mr Albanese—Mr Speaker, I rise on a point of order. His job is to defend your ruling. He is clearly out of order.

The SPEAKER—I am listening carefully to the Leader of the House. He is in order. I call the Leader of the House, and I remind all members that warnings still stand.

Mr Abbott—The few remaining ferocious supporters of the Leader of the Opposition are reinforcing the point I make by taking these points of order. They are reinforcing the point that he is dying.

Mr Albanese—Mr Speaker, I rise on a point of order. In response to the member for Cowan you upheld his point of order. The minister is now defying your ruling. I would ask you to pull him back into line.

The SPEAKER—I ruled on the point that the member for Cowan made. I have since ruled again to say that the Leader of the House is in order. I call the Leader of the House.

Mr Abbott—It is the clear practice of this House—

Mr Albanese—Mr Speaker—

The SPEAKER—The member for Grayndler has just taken a point of order. He will not debate his point of order. I will deal with him. The member for Grayndler will come straight to his point of order.

Mr Albanese—Mr Speaker, how is it possible for you to make two different rulings on the same point of order?

The SPEAKER—The member for Grayndler will resume his seat. If he wishes to raise questions with me, he can do so afterwards. After I had ruled on the first point of order, the Leader of the House then returned to the motion before the chair. So the Leader of the House is in order and I call him.

Mr Abbott—What prompted this motion of dissent was a question from the member for Perth that was plainly out of order. It is the longstanding practice of this House that you cannot give screeds of information or pseudo information in the guise of a question. In accordance with the longstanding practice of this House, only information which is strictly necessary to make sense of the question is permissible. The member for Perth was chronically in breach of that practice. He was chronically in breach of that practice in his first question and, having been quite rightly and properly pulled up by you, Mr Speaker, he was chronically in breach of the longstanding practice of this House in his second question.

Page 542 of *House of Representatives Practice* makes it perfectly clear that the member for Perth’s question was out of order and you, Mr Speaker, were perfectly entitled to sit him down, as you did. But what we are seeing today from members opposite is their general fury and frustration at the way things are not going their way. The member for Perth submitted an MPI today and, in your judgement, Mr Speaker, you chose an MPI
that was submitted by the member for New England. Plainly, the fact that the member for Perth tried to deliver a 15-minute speech on the substantive motion of industrial relations, instead of speaking to the substance of this dissent motion, and the fact that he was gabbling away, to try to get a 15-minute speech out in 10 minutes, demonstrates what the real import of this proceeding is.

It was absolutely obvious, from the devastated looks on the faces of members opposite when the member for Perth moved this ridiculous dissent motion, that they know things are going very wrong. And the fact that the member for Lalor did not second this dissent motion, which is what would normally happen, shows that the rats are running in the ranks opposite. Madam 27 Per Cent certainly was not going to support Mr 24 Per Cent on this matter. I can feel the dream team coming on. I can sense the pair supported by more than 50 per cent about to do in the pair supported by less than 30 per cent.

Ms Gillard—In relation to my last point of order, Mr Speaker, I heard you rule that the Leader of the House would be in order if he were addressing the motion or addressing remarks made by the speakers in support of the motion. He is now doing neither of those two things, and I ask you to direct him to come back to making relevant remarks, not grossly irrelevant remarks.

Ms Gillard—In relation to my last point of order, Mr Speaker, I heard you rule that the Leader of the House would be in order if he were addressing the motion or addressing remarks made by the speakers in support of the motion. He is now doing neither of those two things, and I ask you to direct him to come back to making relevant remarks, not grossly irrelevant remarks.

Mr ABBOTT—They are a very frustrated and disappointed lot opposite. They know they are clearly in breach of the practices of this House. They are clearly in defiance of the longstanding custom of this House that information—screeds of information—cannot be given in the guise of a question and, instead of actually having decent tactics and instead of actually going sensibly about their question time planning, they are so utterly consumed with who is going to possibly challenge the Leader of the Opposition next week that they did not do their homework, and that was why their question was so plainly and obviously out of order.

This was going to be the Leader of the Opposition’s week of triumph. This was going to be when all his huffing and puffing about corruption and cover-up would be vindicated—but, instead, the Cole royal commission concluded that there had been no wrongdoing whatsoever by officials and ministers in this government. So what did the Leader of the Opposition do? He went back to his comfort zone of workplace relations—
Ms Gillard—I rise on a point of order—

The SPEAKER—The Leader of the House just mentioned something that was brought up in the earlier debate. I believe he is in order. If it is a question of relevance, he is in order.

Ms Gillard—I must admit I did not hear him utter a relevant word: he was off on the Cole royal commission, I think. If he wants to move a motion about that, we will certainly debate it.

The SPEAKER—The Manager of Opposition Business will resume her seat. The Leader of the House is in order.

Mr ABBOTT—We have just heard 15 out-of-order minutes from the Leader of the Opposition and the member for Perth. He goes back to his comfort zone of workplace relations. Do you know why? They cannot trust him once he gets off the script. We all heard last week why they cannot trust him: when he talks about anything new, he will get it mixed up. He goes roving. That is his problem. You know, they are going to have a—(Time expired)

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

The House divided. [3.38 pm]
(The Speaker—Hon. David Hawker)

- Ayes……………. 56
- Noes……………. 82
- Majority……….. 26

AYES
Adams, D.G.H. Albanese, A.N.
Beazley, K.C. Bevis, A.R.
Bird, S. Bowen, C.
Burke, A.E. Burke, A.S.
Byrne, A.M. Corcoran, A.K.
Crean, S.F. Danby, M. *
Edwards, G.J. Elliot, J.
Ellis, A.L. Ellis, K.
Emerson, C.A. Ferguson, L.D.T.

Ferguson, M.J. Fitzgibbon, J.A.
Garrett, P. Geoghegan, S.
George, J. Gibbons, S.W.
Gillard, J.E. Grierson, S.J.
Griffin, A.P. Hall, J.G. *
Hayes, C.P. Hoare, K.J.
Irwin, J. Jenkins, H.A.
Kerr, D.J.C. Lawrence, C.M.
Macklin, J.L. McClelland, R.B.
McMullan, R.F. Melham, D.
Murphy, J.P. O’Connor, B.P.
O’Connor, G.M. Owens, J.
Plibersek, T. Price, L.R.S.
Quick, H.V. Ripoll, B.F.
Roxon, N.L. Rudd, K.M.
Sawford, R.W. Sercombe, R.C.G.
Smith, S.F. Swan, W.M.
Tanner, L. Thomson, K.J.
Vamvakou, M. Wilkie, K.

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

* denotes teller

Question negatived.

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

QUESTIONS TO THE SPEAKER

Anti-Money Laundering and Counter-Terrorism Financing Legislation

Mr BEVIS (3.44 pm)—I have a question to you, Mr Speaker, which relates to some incidents yesterday in relation to a second reading amendment I proposed to the Anti-Money Laundering and Counter-Terrorism Financing legislation. You may be aware that my office submitted a second reading amendment. We were advised that that was inappropriate and that you had ruled that certain words must be removed from the second reading amendment. We were advised that that was inappropriate and that you had ruled that certain words must be removed from the second reading amendment. I have two questions in relation to this matter. The first is that you required that the word ‘Howard’ be removed, that it was not possible to move a second reading amendment referring to the ‘Howard government’. I seek your advice as to which standing order or procedure required the removal of the description ‘Howard’ in front of ‘government’, given that it is a phrase commonly used in question time and indeed at most points during the day of the parliament. In what way was that out of order? Which standing order did you rely upon to determine that the second reading amendment was out of order, given that it was a matter being moved, debated and voted upon and was not an allegation being made against any member of the parliament?

The SPEAKER—I thank the member for Brisbane. He raises an important question. In response, I make two observations. On the first point, as I understand—and I did take advice on this—in that amendment as originally proposed, but not submitted, there were reflections which would not have permitted a direct vote and the question would have been ‘that the words stand’.

In relation to the second point about the reference to how he would refer to the government, there is a practice that members have been observing for a long time, and that practice is included in the way that matters of public importance are framed. I think all members would be aware that we are continuing to follow that practice.

Mr BEVIS—I seek some clarification of that, please. In relation to your requirement that I not use the words ‘Howard government’ but only the word ‘government’, I must say that I have looked through House of Representatives Practice, as well as the standing orders, and can find no precedent or reference. Indeed, given its common usage, I am not sure what you just said makes any impact at all on my question. Again I ask why it is the word ‘Howard’ cannot be used before the word ‘government’ in a second reading amendment.

Mr Kelvin Thomson—It may be offensive to some.
Mr BEVIS—Indeed, as has been pointed out, it may be offensive to some but I would have thought within the confines of standing orders it was at least parliamentary language. In relation to the question of corruption, I understand it is not appropriate to allege corruption against a member. Indeed, the amendment, as submitted, did not refer to ‘a member’; it referred to ‘the government’. Given that it was a second reading amendment which was to be debated and voted upon, if it is not possible to say things of that kind in a second reading amendment which is debated and voted upon, in what circumstances is it appropriate to do that? Truthfully, it seems to me a strange ruling that denied me, on behalf of the opposition, the opportunity to move a set of words in a second reading amendment which I would have thought, in normal circumstances would have been allowed. If you could elaborate on your earlier ruling, I do not understand why the ‘Howard government’ is an unparliamentary term.

The SPEAKER—Again, I thank the member for Brisbane. In response to his last point about putting allegations in an amendment, he would be aware there are forms of the House that would be used to make that sort of allegation. He should be aware that, if he wishes to use such forms of the House, of course he is entitled to do so. Using the name of a member is outside the practices and rules of the House and I did rely on the advice of the clerks. If you would like me to get a more detailed answer, I will do so afterwards.

Mr BEVIS—I would appreciate it, Mr Speaker.

Main Committee Adjournment

Mr KERR (3.49 pm)—Mr Speaker, I wonder whether I might seek your indulgence very briefly to mention a matter that arose late in the Main Committee last evening. I would have sought your indulgence at the chair but intervening events prevented that. As you will be aware, the House collapsed early last night when the adjournment debate was not proceeded with. At that time, the Main Committee was proceeding. The Main Committee debate was not recorded in the Hansard subsequent to the adjournment of the House. That was a matter of some discussion between the clerks and me. I understand it has now been agreed that those proceedings be included. I thank you, the clerks and anyone involved. The point I wish to make is that plainly it was a proceeding of the parliament. The Main Committee was being chaired and any circumstance that would have been resolved otherwise has the potentiality of having members speaking in a proceeding of the parliament. Had an event arisen which might, for example, have raised a matter which could have been an issue of defamation, privilege or the like, the House would not have been given protection. I simply raise this matter so that it be recorded as a precedent of the parliament. That circumstance may arise again. I simply want to say that in my view it was resolved correctly after the intervention of the clerks and I wish to record that fact formally in the House.

The SPEAKER—I thank the member for Denison. As he has fully explained it, I think the matter has been resolved favourably. I therefore think that no precedent has been set other than that Hansard will record his speech.

Department of Parliamentary Services: Cabcharge

Ms HOARE (3.51 pm)—Mr Speaker, I have a question to you. Can you please confirm to the House that the Department of Parliamentary Services has recently determined that Hansard staff finishing work late at night can no longer access a cabcharge to get home, as has been past practice? Can you
explain why this decision has been taken and whether the department owes Hansard staff a duty of care to ensure their safe return home after working late into the night?

The SPEAKER—I thank the member for Charlton for her question. I had hoped to be in a position to answer it for her now. I will get an answer to her as soon as I can.

DOCUMENTS

Mr McGAURAN (Gippsland—Deputy Leader of the House) (3.52 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 document:

Debate (on motion by Ms Gillard) adjourned.

MATTERS OF PUBLIC IMPORTANCE

Australian Wheat Industry

The SPEAKER—I have received letters from the honourable member for New England and the honourable member for Perth proposing that definite matters of public importance be submitted to the House for discussion today. As required by standing order 46(d) I have selected the matter which, in my opinion, is the most urgent and important—that is, that proposed by the honourable member for member for New England, namely:

The future of the Australian Wheat Industry

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

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

Mr WINDSOR (New England) (3.53 pm)—This is a very important matter of public importance because it reflects on the future of one of Australia’s proudest and most important export industries. I know that everybody in this House is aware of the events of recent months. I do not want this motion to be too much about the past—the motion actually is about the future of the wheat industry—but obviously there has to be some degree of reflection on what has happened and also on the outcome of the Cole inquiry, because that very inquiry and the events that occurred in the Middle East could have, and probably will have, a dramatic impact on the shape of the wheat industry into the future.

Commissioner Cole made the comment that the dealings of the AWB in the oil for food program have cast a shadow over the reputation and credibility of the wheat industry. I think all farmers would agree with that. There are probably only three or four people in the parliament who are actually wheat growers and I happen to be one of those people. I was also on the Grains Council of Australia in the late 1980s and early 1990s, so I have had some involvement in the very issue that we are talking about. I think the most important thing all of us should reflect on is that the people who are going to be affected by decisions made in this place are the wheat growers of Australia. We want to keep them foremost in our minds when we are deliberating about their future. I think everybody understands the problems that have occurred in relation to drought et cetera, and the very futures of these people hang in the balance.

The Cole inquiry came up with two things, in my view. It really put the Australian Wheat Board in a very bad light both domestically and internationally. It did so in an environment where various ministers within the government, particularly the former Minister for Trade, had been working with some degree of diligence to try to
achieve better outcomes internationally in terms of free trade. The dealings of the AWB have ruined that credible attempt to try to gain a better foothold for trade internationally. Domestically, I think wheat growers have lost trust in those directors, those people on the board who were there to actually administrate on their behalf to try to gain the best price for wheat internationally.

I am aware that Senator Joyce, in another place, made a comment some months ago that I believe should have been sanctioned at the time. He said that that is the way you do business in these places—that you have to take along bribe money to do business with people in the Middle East. People such as the former chairman of the Wheat Board, Clinton Condon, would not agree with that. They did not carry out this sort of activity to maintain an interest in the Middle East, in Iraq, and they particularly did not do it in a climate where the oil for food program existed, where there was obvious conflict, where there was a madman in charge of a country and where there were supposed weapons of mass destruction. They did not do it in a climate where that sort of activity was being perpetrated.

The activities of those people within the AWB have been absolutely disgraceful and unforgivable. In saying that, I think there are going to be very real problems of re-establishing the AWB in some guise of its former self that will have any credibility internationally or domestically. I would also reflect on what I believe, even though it does not show up in the Cole report, was the absolute incompetence of some people in government departments that, in my view, has aided and abetted this process. Even though Commissioner Cole was unable to find absolute proof that people did not know what was happening, I think the public is fully aware that there were people who did know. Whether they passed on the message to their superiors or through the ministerial wagon is another question, but I think the general public understands that people did know and that, at the very least, some of the senior bureaucrats were incompetent in administering the oil for food arrangements and the licences to sell grain into Iraq.

My view is that, given the damage done by the AWB executives to the credibility of the wheat industry, we do have to look at future arrangements to be put in place so that the industry can move forward with some degree of credibility. In saying that, I gave a doorstop interview this morning in which I gave my support to the arrangements being discussed by the member for O’Connor. I have looked at them closely and have held discussions with him and others, and with people in my electorate, about some of the issues raised in the last few days since the report of the Cole inquiry came down. It seems to me untenable if the arrangements we have had in place are carried into the future; a new arrangement should be put in place that will have some credibility.

I am not saying that the proposed private member’s bill by the member for O’Connor ought to be the absolute option accepted, but I think the parliament needs to have a serious look at it. Essentially, it transfers responsibility from the Wheat Board to the Wheat Export Authority or an authority of that nature, and the single desk would be virtually controlled by that authority. If there were to be any other export licences, they would be issued through that authority. The proposal also gives the parliament some degree of say as well.

I think some very important points have been made which are not all that dissimilar to the current structure within the Wheat Board. I think the Wheat Export Authority was a bit tardy in its work in the last few years too. We have an authority that has con-
control over the single desk and the ability to on-licence potential exporters if it sees that the maximising of returns to growers is an objective that can be sensibly done through that arrangement. I think we really have to have a serious look at that. Some of the basic structure of the current Wheat Board would still be maintained but in my view sets it aside so that it can move forward.

As a grain grower I think the Australian Wheat Board made an error, and maybe the corporate experience has failed generally. I think what we are trying to do today in the splitting off option and the return to the past is more of a grasp for survival rather than a meaningful attempt to address the loss of credibility internationally. I think that, when AWB moved to a situation where it was essentially shareholder driven and started to move into areas that were not necessarily about the sale of grain domestically and internationally, it started to move away from the greater body of wheat growers.

Another issue that needs to be looked at, particularly in terms of the deliberations of the member for O'Connor, is the special place of Western Australia in relation to export grain. I do not think it is any secret that Western Australia has been fortunate enough to produce quite a lot of grain in recent years, and most of it is required to go overseas. That may change in the future, with the increase in biofuels and ethanol et cetera, but it most probably will not in the short term at least. The Western Australians do need to have a real say and participation in the future of this great industry. I think it is only a matter of time, and it may require a change of government—who knows—before very little grain will be exported, from the Eastern States in particular, and most of it will be used in other forms of value adding, particularly for ethanol but also for the feedlot industry. But, in the determinations, I think the Western Australians should be listened to as much as possible.

I raised an issue some months ago which was very much in terms of the future of the Australian Wheat Board, but at that time I was unable to get a real response from the Leader of the National Party. One of the things that I want to raise today, particularly as there are so few wheat growers in either the House of Representatives or the Senate, is that if meaningful change is proposed, such as that by the member for O'Connor—and no doubt there will be other options—those options be put to a poll of registered wheat growers. It should not be decided by the National Farmers Federation or the Grains Council of Australia, because I do not think they have the right to make such decisions anymore.

I think they really have opted out of that favoured position of being the spokespeople for grain growers—for instance, the Grains Council of Australia opposed a mandate on ethanol, which is completely contrary to interests of growers, on the basis that motorists should have choice. So I think that is an example of how the Grains Council does not necessarily represent the people who are driving the tractors. There is an assumption among some in this place that some members of the farming community might not have the capacity to make decisions on the future of their industry. They should be the ones who actually do make the decision on the various options that are and will be proposed for its future, because I do not believe there is any way that this industry will move forward in the same guise as it is now: with the Australian Wheat Board as the vested power for the export of grain internationally. I think that situation would be untenable. We will have a situation where maybe a dozen people will be before the courts. We will have some international ramifications probably in America and in other parts of the world be-
cause of the conduct of the Australian Wheat Board and the Australian government in relation to the food for oil program, so it would be untenable to go forward with the way it is now. The options of the member for O’Connor and others have to be considered, but in the light that the wheat growers should make the decision about the future of this industry.

The report of the Cole inquiry highlighted a number of things, some of which are of a political nature. It highlighted the way in which the wheat industry moved through the 1970s and 1980s and then changed gear in a corporate experience that did not advance the intellectual capacity of those who were driving it. The change of climate took place in a legislative sense, but it did not take place in a mental sense in the administration of the operation. In fact, what actually happened to growers was that they were not the prime target of the board; the survival of the executives and the shareholders of the board became the major focus for the board going forward.

In conclusion I would suggest that whether the government knew or did not know or whether the directors of the board knew or did not know about the failure of the Wheat Board and the quite blatant arrangements that some members of the Wheat Board executive put in place is almost irrelevant in terms of the future. What is relevant is that the damage has been done to the reputation of a once great body that is seen as the representative of wheat growers across this nation. As we move forward, the focus has to be on what the wheat farmers of this nation want, not on what the political operatives within this place think they can do in making life difficult for one another. It is time for all of us to have a good think about how we can make the farmers’ lives better in terms of the export of their grain. (Time expired)

Mr McGAURAN (Gippsland—Minister for Agriculture, Fisheries and Forestry) (4.09 pm)—This is more than a worthwhile debate for the parliament to occupy its time with; it is a necessary debate. I thank the honourable member for New England for submitting this matter of public importance and, in doing so, displacing the Labor Party’s own submitted matter for debate, which I understand was on Work Choices or industrial relations—not on the Cole inquiry or the wheat industry but instead on industrial relations. This matter of public importance, the future of the Australian wheat industry, needs to be addressed.

Taking up from the contribution of the member for New England, I wish to put this debate on the way forward for this great primary industry in more of a context following the Cole inquiry. Bear in mind that the failures at AWB were of ethics. As Cole reports in his prologue on page xii:

The conduct of AWB and its officers was due to a failure in corporate culture.

The single desk was not to blame for the failures at AWB. Therefore, in considering future arrangements, great care has to be taken so as not to inadvertently punish the innocent. Any response that is disproportionate and imposes costs on wheat growers is holding them liable for and even guilty of offences they had no knowledge of, let alone participation in. The failure was of corporate governance within AWB, and that is the problem that needs to be addressed. AWB has a number of internal reforms well under way, so much so that the 12 persons named for further investigation by Commissioner Cole are no longer employees of the organisation. Failures of corporate governance were also at the heart of the Bond, Skase and HIH collapses. Any government response has to address the causes of the problem, and that is being undertaken, obviously, by investigative bodies.
While some people are arguing that the export monopoly contributed to the arrogant corporate culture that led to the payment of bribes, at best, in my view, it was a minor part. Volcker, on behalf of the United Nations, identified thousands of companies that paid the same fees to Iraq, and those companies did not have export monopolies. So it can hardly be said that the mere holding of an export monopoly is the cause of the problem. Revelations by the Cole inquiry have understandably and naturally increased calls from parts of industry for changes to the single desk arrangements. The member for New England has canvassed these and outlined in general terms his current thinking on the issue. The Cole inquiry report also highlighted the problems of overseeing a monopoly exporter.

As the Prime Minister announced, the report of the inquiry has clear implications for the operation of the single desk system for wheat exports and, in particular, for the role of AWBL and AWBI and the WEA in relation to wheat marketing. Indeed, all through the past 12 to 18 months, I and members of the government have consistently said that, on the receipt of the Cole commission’s report, we would consider the marketing and oversight of the single desk arrangements. However, the Prime Minister at the same time has emphasised that, in formulating its response, the government’s dominant concern will be for the interests of the Australian wheat growers. For that reason, the Deputy Prime Minister has stated that there will be consultation with growers.

The reason for consultation with growers is obviously the importance of the industry to individuals, to farm families and to local and regional economies as well as the national economy. This is a giant export earner for all Australians. But we are also considering changes to essentially a 65-year-old system against a backdrop of the worst drought in 100 years, which has decimated the winter harvest. Production of the three major winter crops of wheat, barley and canola in 2006-07 is forecast to decline to around 13½ million tonnes, which is down 63 per cent from last season’s harvest of 36½ million tonnes for those three crops. A harvest of this size would be the smallest for these crops since the drought of 1994-95, when 12 million tonnes were harvested. Wheat, especially, is forecast to be 9.5 million tonnes in the coming financial year, down 15½ million tonnes or 62 per cent from last season. The weight of responsibility not only on all members of the House and the government but also on industry leaders is heavy. We must get this right, and there is no particular repository of wisdom on this issue. But we must involve and consult wheat growers collectively to draw on their experience and their views.

The government also holds serious concerns about the potential for an improved situation for farmers during the current summer cropping period. The continued dry and hot conditions, coupled with unprecedented low irrigation entitlements, are making growing conditions over summer very difficult across the country. I should say, however, that improved management practices and the development of improved grain varieties over the past 20 years mean that farmers are generally able to achieve relatively better production outcomes from limited rainfall, which is a testimony not only to their human spirit and resilience but also to their skill and innovation. Practices such as direct drilling have improved soil structure and stability and, more importantly, have improved the ability of growers to conserve limited soil moisture. Many of these productivity improvements have also been due to the research and development in which the industry so heavily invests, principally through the Grains Research and Development Corporation. The GRDC is funded by
growers and government in a partnership that accumulates about $120 million a year for investment in research and development.

It hardly needs to be said that wheat is the largest broadacre crop grown in Australia. Over the past three years, wheat comprised around 56 per cent of total grains and oil-seeds production. In dollar terms, the average annual gross value of wheat is just over $5 billion. It is well ahead of barley, which is $1½ billion, and canola, which is half a billion dollars. That gives you some idea of the size and reach of this industry in both economic and, by extension, human terms. Of Australia’s total production, Western Australia accounts for around 40 per cent and New South Wales, 30 per cent. South Australia is the third-largest producer at 13 per cent; Victoria, 11 per cent; and Queensland, five per cent. Interestingly, Australia is not a major wheat producer but it is a major wheat exporter. Five countries, including Australia, account for about 80 per cent of world wheat exports. The United States accounts for a third of total exports; Australia and Canada, 15 per cent each; the European Union, 10 per cent; and Argentina, 10 per cent.

We do, as the member for New England stressed, have to be extremely mindful of the particular circumstance of Western Australia, where its industry is predominantly—bordering on exclusively—export orientated. There the great debate is whether or not to keep the single desk. The single desk has the veto attached to it and is not held by a third party such as the Wheat Export Authority or a similar entity and it brings about longer term price stability compared to particularly higher prices somewhere through the cycle. In other words, I am far from convinced that the majority of Western Australian farmers would opt for a different system and the uncertainties it may bring to the one which they generally understand at present. However, I am advised by my Western Australian col-

leagues that, on the whole, Western Australian farmers do want the opportunity of selling on a competitive basis, and that will be part of the consultation and the debate.

Today’s question time was remarkable from a couple of aspects. One of them was the disintegration of the Labor Party’s tactics and the disarray within their ranks which saw one shadow minister in a fit of temper derail question time and curtail their capacity and opportunity to ask questions of government ministers. It was quite extraordinary that one person at the dispatch box, without consultation or reference to his leaders or to the other tactical geniuses within the Labor Party, would be able to proceed on that basis. Even more important was the fact that, after the third question to the foreign minister about the Cole commission, the Labor Party moved to an environmental question and thereafter to Work Choice questions.

After the biggest scandal—allegedly—that the Leader of the Opposition has seen in his 26 years in parliament, the opposition has asked a sum total of 13 questions—10 yesterday, Tuesday; and three today, Wednesday. For more than 12 months there has been the blustering, the accusations and the farrago of slurs against government ministers, including the Prime Minister. And what has it come to? It has come to 13 questions in the parliament following the release of the Cole inquiry report compared to the several hundred questions over the course of the last 18 months. I have not done the sums—I did not think that I would need to draw a contrast between pre-Cole and post-Cole report questions—but the number would be no fewer than 300, all of which accused various ministers day in, day out of lying and deceiving and of outright negligence.

There have been three stages to the Labor Party’s strategy against the government for which they must be held accountable. The
first, in the early part of this year, was that ministers within the government knew of the bribes and were culpable and involved in the bribes. These are the most serious accusations—allegations of corruption against ministers. As that began to fade through the first half of this year, the opposition changed tactic and began to accuse ministers of a cover-up—that is, ministers later became aware of the AWB’s bribes but ignored them, then hid them and took no action even though they had full knowledge retrospectively of the bribes. The Labor Party have now moved on from that to the accusation of incompetence.

Yet, for all of the extravagance and hype of the Leader of the Opposition, there has been no apology. There has been no recognition that the Cole inquiry made no adverse findings against the government or against any minister. Commissioner Cole found that no minister acted improperly, that no minister had knowledge of the fees paid in breach of the United Nations sanctions at the time they were occurring and that the government and its ministers were misled by AWB just as AWB misled the Department of Foreign Affairs and Trade, the United Nations and the Wheat Export Authority. The report highlights the extent of AWB’s efforts to keep hidden its payments of those fees and its after-sales service fees. The inescapable fact is that it took the powers and the resources of the commission of inquiry to uncover the extent of the AWB’s deception—an inquiry established by the government—a government that wanted to get to the truth of the matter wherever that may have led.

The Labor Party, of course, will claim that the terms of reference were too narrow and inadequate, but let me quote from paragraph 31 of Commissioner Cole’s inquiry with regard to this very issue of the terms of reference and their adequacy:

It was made clear, however, that if during the conduct of the inquiry it appeared there might have been a breach of any Commonwealth, State or Territory law by the Commonwealth or any officer of the Commonwealth related to the subject matter of the terms of reference, I would approach the Attorney-General, seeking a widening of the terms of reference. That situation did not arise.

It is clear from Commissioner Cole’s report that any claims of inadequate terms of reference in relation to ministers and public servants are a nonsense. The hardest thing for the Labor Party to overcome is the public’s recognition that the Prime Minister, Deputy Prime Minister and Minister for Foreign Affairs attended the inquiry. There is not a single person in Australia outside the Labor Party who believes that the Cole commission was anything other than completely unfettered and utterly rigorous in its consideration of the issues. The fact that the Prime Minister, Deputy Prime Minister and Minister for Foreign Affairs came before the commissioner lends great credibility to his findings. (Time expired)

Mr GAVAN O’CONNOR (Corio) (4.23 pm)—The Minister for Agriculture, Fisheries and Forestry could not help himself towards the end of that speech and I think, quite frankly, that the minister prostituted the MPI before the House today with his cheap defence of the government’s untenable position.

I commend the member for New England for bringing this MPI before the parliament today. I know he is highly regarded by wheat growers and other constituents in his electorate. I note that the honourable member for Wakefield and the honourable member for Mallee are in the House today, as was the honourable member for O’Connor. All of these members have a deep and abiding interest across the political spectrum in the future of this industry. My interest in this is a fairly personal one. I have relatives who earn their living in this industry and in my youth I
spent many holidays on the headers. They were nothing like the headers that are driven today, of course, but they produced the fond memories I have of working in this industry. I have an interest because of my shadow ministerial responsibilities, and of course the port of Geelong in my electorate is a major bulk-handling port for this product.

I disagree with one contention of the member for New England in today’s debate. We simply cannot move this industry forward until those who are politically responsible for its devastation are brought to account. The minister argued that in its response the government must be mindful of any additional costs that it puts on wheat growers, but what about the costs of its incompetence and negligence? Those particular matters have not been addressed and, until they are, this matter will not be resolved in either the political context or the economic context.

Today in rural Australia, a wheat farmer will look across the parched landscape of his or her drought devastated farm and a real sense of despair and betrayal will creep across that wheat grower’s soul. In the Australian parliament the Minister for Foreign Affairs arrogantly giggled and laughed away his responsibility in what has been termed the worst corporate scandal in the history of rural Australia. Today in rural Australia, wheat farmers despair that their crops have shrivelled in the hot sun. They have suffered the drought day after day to the point where they have incurred massive costs but there is simply no crop or no point in harvesting the crop and with it goes the hope of a reasonable season. In this House, the Deputy Prime Minister and Leader of The Nationals, Mark Vaile, denies any knowledge of or responsibility for the scandal that has devastated the incomes of wheat growers in Australia. Today many wheat farmers will walk across their drought devastated farms and ponder the devastation visited on their great industry. They will ask why it is so and how it has happened. And in this House the former Minister for Agriculture, Fisheries and Forestry, Warren Truss, scurries for cover behind the findings of the Cole commission.

We are all concerned about the future of this industry, but to construct that future we have to deal adequately now with its recent past. How did it happen that the single desk marketing authority for this great industry and great rural product got itself into the position where it is now the subject of ridicule in the international and domestic marketplace and the wheat growers’ incomes have been so devastated? Cole gives us a clue to that. Cole gave us a clue when, on the second page of the prologue of his report, he said it was the ‘closed culture of superiority and impregnability, of dominance and self-importance’ that caused this mess.

I think those particular lines apply to the government, because if ministers had been doing their job this scandal would not have happened. The Prime Minister yesterday in this House really did mock the wheat growers of Australia, because he stated in question time that the Liberal and National parties were the best friends the wheat growers of Australia had ever had. That is the statement that had them white-hot with rage, because they know the devastation that has been visited upon their industry.

When we ponder the future of this industry we need a mechanism to take account of the costs. If we change the failed structures that have been put in place by the Howard government in this industry, we have to take into account the ever-present costs of this debacle to AWB and through it to the wheat growers. We know that the cost of this scandal has halved the value of the investment of shareholders in AWB. A conservative estimate would put that at $600 million to $800
We have lost trade with Iraq of more than $500 million. There are lawsuits threatened. We heard of one of those in the United States today of some $1 billion. There is a potential tax liability associated with the scandal that could run between $150 million and $200 million. So before we talk about the future we have to ponder the present costs of this debacle. That has to be factored into any suggestion that anybody in the industry or on either side of this House will make about the future wheat-marketing arrangements and what might be put in place in the wake of Cole.

I doubt that we are going to get serious debate in the government on the options that are available to the industry for its future. This issue has so poisoned relationships in the coalition that I fear for the industry. I fear that decisions are going to be made about it and about its structure by a government that is racked with division. We only have to look at the comments in the papers today on an entirely different matter. The rural Liberal, the honourable member for Hume, who I and the member for New England serve with on the agriculture committee, fronted the National Party senator in the party room and warned:

I have cut the throats of animals worth more than you.

Are those people, who have responsibility both for this industry and for wheat growers and their families in rural areas, going to sit down in the cool light of day with that sort of relationship? The honourable member for O'Connell had this to say:

A number of people, who were not Liberals, were constantly out in the marketplace saying it was the way you did business in the Middle East. If our side of politics is guilty of anything, it’s of trusting a mob of agri-politicians—all of which have close connections to the National Party.

I want the National Party ministers to really accept responsibility for this debacle and resign. Warren Truss should resign, Mark Vaile should resign and Alexander Downer should resign, because—

The DEPUTY SPEAKER (Mr Jenkins)—Order! The honourable member will refer to members by their titles.

Mr GAVAN O’CONNOR—the concept of ministerial responsibility is absolutely vital to the future of this industry. We know that the options are between the status quo and complete deregulation. There are many variants of that and they can be debated.

(Time expired)

Mr WAKELIN (Grey) (4.33 pm)—Firstly, I thank the member for New England for the opportunity to discuss the future of the Australian wheat industry today. It is a very important topic at a time when there are significant challenges ahead. It is self-apparent, I am sure, but nevertheless it is worthwhile in this place to air it and I am appreciative of the member for New England’s contribution. I must say that within his contribution I found very little to differ with. In a very fair way he mentioned the issues. I was particularly attracted to the acknowledgement of Western Australians—and, may I add, perhaps a little selfishly, South Australians—in terms of the export component of the wheat industry, which, of course, the single desk particularly relates to.

Many of us will recall the debate many years ago about the deregulation of the domestic wheat industry. That is not what we are here to do today, as far as I am concerned. I, like the Minister for Agriculture, Fisheries and Forestry, the member for Gippsland, believe that it is possible to separate out the issues of the single desk and the corporate culture that AWBI found itself caught up in. I do not intend to discuss Cole in any great length other than to say that I am grateful for the skill, which I think is acknowledged right across the House and across...
party lines, that Commissioner Cole showed in the way that he analysed this situation. I end up with a great respect for someone who has so fairly and in a balanced way brought down quite a significant report but in such a forensic way that I am sure most Australians will be able to understand what he is talking about.

The fact of life for the wheat industry—and to go to the member for Corio’s contribution—is that the devastation of the income of wheat growers has much more to do with that which falls from the sky, and that will always be the case, than the behaviour of marketing bodies, governments or any other body within this country. As a wheat grower, I am proudly part of the wheat industry. Those who have come before me in the wheat industry at times of other great challenge in the industry have said, ‘Yes, there is a problem.’ Some people may remember the issue of wheat quotas. But, as my father said to me then, ‘Your greatest challenge, quite frankly, will be to grow the stuff.’ So let us not lose sight of what our farmers are about. They are amongst the best, if not the best, producers of grain in the most skilful way in the world.

The ebb and flow of organisations such as AWBI are, in my view, secondary issues for this great industry. Let us remind ourselves about this industry. The member for Mitchell reminded me that James Ruse produced the first wheat in Australia. I will take a guess, but it was probably in 1789 or 1790. Some people may remember a man by the name of William James Farrer. When he developed the wheat variety ‘Federation’, which I understand was a rust resistant variety, it contributed very significantly to the wheat industry over 100 years ago—hence its name, of course.

But there has been ebb and flow in this industry over at least 200 years, and this is just another part of that. We know that it is a significant export earner. We know that the mining industry has moved on and is a very strong contributor to our export income, whereas at one time primary production—that is, the wheat industry, the wool industry and the meat industry—was significantly greater than the mineral industry. So primary production, particularly the wheat industry, as significant as it is, is a smaller part of the overall Australian economy.

It seems to me the great challenge for all of us, particularly in this place, is to strip away the politics as best we can, as I believe the member for New England and the minister did today, and focus on our future at a time of one of our toughest droughts, at a time when we need, quite frankly, the best corporate approach—the best strategy—to give our wheat growers the best opportunity to maximise their return. Of course, everyone knows that, for anyone who has some wheat, in whatever quantities—and many wheat growers do not have very much wheat at all, and certainly my farm is in that category—wheat is at perhaps five to eight per cent of its average production or slightly above what we would consider a reasonable production level. Imagine your income when, after investing some hundreds of thousands dollars—certainly $50,000 to $100,000 at least, depending on your scale—and expecting to get some hundreds of thousands of dollars in return, you end up with 10 per cent, or 15 per cent if you are lucky, of what you might regard as an average income or of the average gross income for that particular year. So these are factors that farmers are used to dealing with. It is not particularly helpful for us to overly politicise the problems of the AWB in this place.

To go to the challenges over the next few days, we know that the government—the Prime Minister and the Deputy Prime Minister—will bring forward in the next few days
a range of options which I believe will show us the way to the future. I have my own private views about that, but it is not for me to canvass them at this time, other than in the general context of agreeing with the member for New England that we cannot stay the same. The status quo is no longer an option. It does not necessarily mean that the single desk has to be unduly changed. At the very least, a significant interim period needs to be part of that discussion.

I look at all the numbers—the alleged $1 billion lawsuit; the tax liability—and all of the technical, legal and economic debate. The House might forgive me for being slightly wary of—I will not say cynical about—all that technical stuff, because I come back to this key issue: for the wheat growers of Australia, it is about growing the stuff. It is about getting a profitable return. It is not about the politics. It is not about alleged activities in the Middle East. It is not about any of that—remembering, of course, that the market in Iraq represents an average of about 10 per cent of the total export market at any given time. So I believe we can look to the future with confidence. We have issues of leadership and reasonable options that we need to consider as quickly as possible. I believe that those options are before us. There is no doubt about the ability to produce the stuff when it rains, and there is no doubt that the marketing capacity of this country is there. Within the single desk, we will find a way to maintain the standard, keep the corporate culture strong and make sure that this wheat industry continues to thrive after the drought.

The DEPUTY SPEAKER (Mr Jenkins)—Order! The discussion is now concluded.

ENVIRONMENT AND HERITAGE LEGISLATION AMENDMENT (ANTARCTIC SEAL AND OTHER MEASURES) BILL 2006

Referred to Main Committee

Mr BARTLETT (Macquarie) (4.44 pm)—by leave—I move:

That the bill be referred to the Main Committee for further consideration.

Question agreed to.

DATACASTING TRANSMITTER LICENCE FEES BILL 2006

Report from Main Committee

Bill returned from Main Committee without amendment; certified copy of the bill presented.

Ordered that this bill be considered immediately.

Bill agreed to.

Third Reading

Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.45 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BROADCASTING SERVICES AMENDMENT (COLLECTION OF DATACASTING TRANSMITTER LICENCE FEES) BILL 2006

Report from Main Committee

Bill returned from Main Committee without amendment; certified copy of the bill presented.

Ordered that this bill be considered immediately.

Bill agreed to.
Third Reading
Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.46 pm)—by leave—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION AMENDMENT (AUDIT INSPECTION) BILL 2006
Report from Main Committee
Bill returned from Main Committee without amendment; certified copy of the bill presented.
Ordered that this bill be considered immediately.
Bill agreed to.

Third Reading
Ms GAMBARO (Petrie—Parliamentary Secretary (Foreign Affairs)) (4.47 pm)—by leave—I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

DEFENCE LEGISLATION AMENDMENT BILL 2006
Second Reading
Debate resumed.
The DEPUTY SPEAKER (Mr Jenkins)—The original question was that this bill be now read a second time. To this the honourable member for Barton has moved as an amendment that all words after ‘That’ be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand part of the question.

Mrs GASH (Gilmore) (4.48 pm)—It is a tenet underpinning our judicial system that justice should not only be done but should also be seen to be done. The military justice system forms part of our legal system and should not be seen as occupying a place outside those parameters, so I welcome the Defence Legislation Amendment Bill 2006 with some personal observations, particularly in light of some recent cases that gave rise to the public perception that somehow the military operated under a different set of rules to the rest of us.

Certainly the function of the military has to be seen in the context that, by nature of its calling, unique circumstances will be presented that cannot always be dealt with in the same way as civilian matters. The calling of the military imposes certain constraints that do not always allow matters to be dealt with as transparently as we would wish. Issues such as security and intelligence matters, strategic considerations and sometimes commercial considerations impact on the process. Establishing any military system of justice requires walking a tightrope between two imperatives. One imperative is that an effective military machine requires discipline as its very bedrock. The other imperative is that human dignity is not negotiable.

When our Australian men and women volunteer to serve their country by enlisting they know they do not throw away their right to be treated with common decency. But they also know that in the military everyone must pull their weight and obey lawful commands irrespective of his or her valuation of the worth of that command. The Defence Force encourages initiative; it knows that intelligent, well-trained men and women are much more effective than unthinking, docile personnel. At the same time, these defence forces recognise that no-one knows all the competing issues or the reasons behind orders and commands. Here then we have a bill which does credit to those who have worked on it and recognised the competing imperatives.
I could speak on the many important improvements in this bill, but to my mind the improvement that encapsulates the approach made by those who drafted it is division 4. Division 4, as you all know, provides for a military jury. This is a novel step for the Army, Navy and Air Force. The provisions of division 4 are very likely a first step—all novel propositions are—and I believe, in time, will take shape. Later there may be enhancements as we see it in operation.

There are those, I have no doubt, who would have argued that the provision for a two-thirds majority verdict in a jury of six, as originally proposed, tends more to convictions. The government has now amended this to provide for a majority decision of five out of six members, requiring a higher degree of consensus on the part of the jury. In serious criminal matters in ordinary courts, the requirement is 100 per cent or, at worst, five-sixths—10 out of 12—to convict. Those who argue this might well have a point. The penalties for such things as mutiny are such that great exactitude and certainty should be demanded of any verdict. However, the opportunities for appeal and even further appeal will, I believe, prove a sufficient safeguard.

In fact, the option that a person who has been charged with a class 3 offence—one that would be heard in a civilian court—has a magistrate sitting alone or elects to have a jury hear his case is an option that many a person in civilian courts would wish to have. This issue alone demonstrates the lengths that the government is determined to go to ensure justice for military personnel.

This bill covers many new matters, such as video links, but to my mind the introduction of a jury—its mandatory use in class 1 offences and its optional use, at the option of the accused, in class 2 and 3 offences—is a great step forward. A jury, as experience and research show, develops an ethos of its own. It takes its work seriously, it is aware of the mighty difference in strength of each side and again and again it has been the bulwark of true liberty. The framers of this bill should be commended, because non-commissioned officers can also serve on a jury.

I am proud to voice support for this bill. You can put it in ornate legal language or in philosophical terms but the real impact of this bill is that our servicemen and service-women will get a fair go. A fair go—that is all Aussies ever ask for. That is what this bill is designed to do: give them a fair go. So it is no surprise that, whilst the majority of the recommendations that were put by the Senate committee inquiring into the effectiveness of Australia’s military justice system were adopted, the government did not adopt some recommendations, so as to preserve the organisational effectiveness of the military. It is largely a jurisdictional question, with some practical limitations given the nature of the conduct of warfare. The last thing we want is to compromise the military’s operational effectiveness by undermining the authority given to commanders and the ability to react speedily when the circumstances dictate. It may be all very well in a peacetime environment, but conflict presents an entirely different prospect, so a uniform military justice code has to be able to meet all contingencies in a consistent manner. Whilst that might compromise the notion of transparency and due process, there are times when the military may not be able to afford such a luxury. In its response to the recommendations from the inquiry, the government said this:

The purpose of a separate system of military justice is to allow the ADF to deal with matters that pertain directly to the discipline, efficiency and morale of the military. To maintain the ADF in a state of readiness, the military must be in a position to enforce internal discipline effectively and efficiently. Breaches of military discipline
must be dealt with speedily and, sometimes, dealt with more severely than would be the case if a civilian engaged in such conduct.

I think it is generally well accepted that the military operates in an environment where the rules that apply to civilians cannot apply to soldiers if we want an effective fighting force. The soldier, by his training, is torn between the values that his family and community have instilled in him and the imposition of military conditioning on those values. The thread of the government’s basis for disagreeing with specific recommendations is the necessity to maintain effective teamwork, and that means demonstrating that the military, whilst it looks after its own, also metes out punishment towards its own. It is a close-knit community whose cohesiveness is integral in maintaining an effective fighting machine. This bill is an initiative that is long overdue, and I commend the government on its vision and foresight.

Ms GEORGE (Throsby) (4.56 pm)—Mr Deputy Speaker, I have been placed in a position where debate is occurring on a very important issue to do with future changes to procedures involving our Australian Defence Force personnel, and I am at somewhat of a loss to understand why the debate may be curtailed at this point in time. As I understand it, we have an amendment moved by the shadow defence minister in the second reading debate on the Defence Legislation Amendment Bill 2006 that says:

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

“while not declining a second reading for this Bill, the House believes that as the provisions for the establishment of an Australian Military Court are not in line with Chapter 3 of the Constitution as recommended by the Senate Foreign Affairs, Defence and Trade References Committee Report of June 2005, and as the appointments to the court and juries are restricted to serving military personnel, the new court can never be separate from the chain of command and the provisions of the Bill therefore maintain the longstanding unsatisfactory compromise which denies the true independence, fairness and objectivity essential for the proper functioning of the military justice system”.

In earlier debate on this bill, the shadow minister for defence enumerated at some length the opposition’s claims as to why the bill before us is insufficient in its scope for us to be able to support it without the amendment moved by the shadow minister. I understand, Mr Deputy Speaker, that the member for Werriwa is going to amplify the position put by Shadow Minister McClelland. No doubt, following his contribution others on our side of the chamber will elaborate in some further detail the issues that come to us in this bill, if that is all right with you, Mr Deputy Speaker.

The DEPUTY SPEAKER (Mr Jenkins)—I thank the member for Throsby.

Mr HAYES (Werriwa) (4.58 pm)—I thank the member for Throsby for that valuable and timely contribution. Labor, as has just been indicated, does have some serious concerns about the Defence Legislation Amendment Bill 2006 before us today. The bill has three main purposes: firstly, the creation of a new military court; secondly, the creation of military juries; and, thirdly, the provision of power for the creation of a Chief of Defence Force commission of inquiry that would investigate all suicides and deaths of personnel in service.

The opposition has raised a number of concerns about the operation of provisions of this bill—provisions which seem to attack the very premise on which this bill is based. In the second reading speech, the Minister Assisting the Minister for Defence stated:

The primary measure of this bill is the establishment of a permanent military court, to be known as the Australian Military Court. The Australian Military Court will be independent of the chain of command, and will replace the current system of individually convened trial by courts
martial or Defence Force magistrate. This new military court will be established under the Defence Force Discipline Act.

I considered this statement, which goes to the very heart of what the government is attempting to achieve with this bill, and came to the conclusion that this model does not lend itself to being independent of the chain of command as the minister indicated in his second reading speech to the House.

My greatest concern about this bill stems from the minister’s statement that the Australian Military Court will be completely independent of the chain of command. Let us take a moment to consider the establishment of the new military court in the context of this statement. If we considered the minister’s assertion that the new court will be completely independent of the chain of command in light of the provisions before us—if we systematically went through how this court will operate—I think any reasonable person would arrive at a significantly different conclusion than that which the minister outlined in his earlier statement. It is simply not the case to say that the new military court is independent of the chain of command. It is not even a poor facsimile of independence.

The most significant provisions of this bill which make a mockery of the suggestion of independence relate to the appointment of judges to the court. The bill provides for a Chief Military Judge to be appointed for a term of five years, the appointment of two permanent judges and a panel of part-time advocates. All appointees will be required to have legal qualifications and, in particular, must have military service. The government’s proposal is not all that different from the current system of courts martial or Defence Force magistrates which it replaces.

The government’s model as proposed in this bill does a number of things. It creates the new military court within the Defence Force Discipline Act. Judges must be serving officers of legal experience. The term of appointment is for a period of five years and reappointment will only be in exceptional circumstances. At the conclusion of their term, judges are to be compulsorily retired. If they reach retiring age during the term, they are also disqualified. Part-time judges are not allowed to engage in any other employment outside their duties. If a judge ‘no longer meets his or her individual service deployment requirements’, they may be dismissed. The Chief Military Judge is to be of a rank no lower than a one star general and a military judge is to be of a rank no lower than that of commander or equivalent. In addition, judges are to be appointed by the minister from a list selected by a special committee, which is in turn to be selected by the Chief of Defence Force. This in no way reflects anything like a civilian court and it in no way resembles a model that could be described as truly independent.

I note that certain criticisms of the model were made by the Law Council of Australia, which seemed pretty scathing in its criticism. It criticised the strong perception of a lack of independence, but also made specific criticisms in respect of the practicalities of recruitment and retention. These are criticisms that have come from the Law Council of Australia. In establishing a tribunal, at least the views of the learned personnel who make up that body should be taken into account. If that is not enough, the Judge Advocate General makes this important statement:

... it is now proposed ... that the military judges will have even less independence, so far as their terms of appointment are concerned, than they have under the existing arrangements. ... To now move to five-year renewable terms, which are not automatic ... considerably reduces the actual and perceived independence of the judges ... and
greatly impedes the AMC’s ability to develop experience and excellence.

Again, this is the comment of a person reasonably close to the action, so to speak; it should not be dismissed easily when deciding whether this tribunal goes close to what the minister said in his second reading speech in developing greater independence for the new military court. This in no way comes close to resembling anything you would expect to find in a civilian court and it is in no way reflective of something truly independent.

When this matter was examined by the Senate, the report proposed that the court created should be created under chapter III of the Constitution, with permanent judges appointed by the Governor-General to make sure they are absolutely free of the chain of command and the entire military. Instead, the government has tried to use spin rather than fact to perpetuate the myth that this new court will be completely independent of the existing chain of command. It has glossed over the recommendations of the Senate report in an attempt to paper over some of the serious aspects of military justice.

The new court that will be established following the passage of this legislation is, quite frankly, no more independent of the chain of command than the system that it replaces in relation to courts martial and Defence Force magistrates. That is not just my view. That is the view of the Judge Advocate General. While the government attempts to defend this approach by asserting that the military justice system is unique and different to the civilian justice system, it seems that this is nothing more than a poor attempt to avoid the introduction of a truly independent system of military justice that is indeed separate from the chain of command.

One final criticism I would make is that the proposed court is not a court of record. The fact that it is not a court of record seriously undermines the status of the court as a genuine court and judicial authority. That is a serious shortcoming. Given that the court is supposed to be independent, its decisions appealable and its powers substantial, it should be a court of record. Bear in mind that this court will have powers to determine actions brought to it concerning any crime that is alleged to have been committed by military personnel either in this country or when they are deployed overseas. So this body will have considerable power. It will not be constrained simply to disciplinary matters. With that, I think our military deserves to have a military justice system which is superior to the military justice system which currently exists—the one which the government has criticised and says should be replaced by a body of greater independence than that which currently exists.

The introduction of military juries is something different. It is clearly a step in the right direction. The proposal is to have military juries comprising six serving personnel of a rank no lower than that of the accused, with binding decisions by a majority of four. I think that is a positive proposal. Under this proposal there is at least a jury system and, as a consequence, decisions are not solely in the domain of a court martial panel or military magistrates. I think that is a step in the right direction. Trial by jury is widely accepted in our democracy as providing an opportunity for greater liberty and is protected by our Constitution. This is something that goes some distance in providing our military men and women with a greater sense of justice and confidence in the justice systems that they may be subject to during their military life.

Having acknowledged that this is an improvement to the military justice system, there are some differences between military and civilian juries for which good explana-
tions have not been provided. I know that this matter is being considered by a Senate committee. I will be very interested to see what their views are, but I simply record my view that the establishing of military juries by this legislation is worthy of applause.

The serious flaws in the system before us today are symptomatic of the contrasting nature of rhetoric and action when it comes to this government’s dealings with defence and defence personnel issues. In his second reading speech, the Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence noted that, when the Howard government responded to the Senate report into the effectiveness of Australia’s military justice system, the then Minister for Defence noted that the government was committed to providing the best equipment and conditions so that Australia had a modern fighting force. That is a noble position to be adopted by the government. He went on to say:

The government continues to express its admiration and appreciation for our defence personnel and the important, challenging and often dangerous activities they undertake, both here in Australia and in overseas operations.

While I am sure that the sentiments of the minister reflect the views of the government, I cannot let the statement pass without contrasting it to the attitude that the government and the minister took to Labor’s motion supporting Korean veterans seeking recognition in the post-armistice period. The minister is willing to stand in this place and indicate strong support for our troops but he rushed out and made statements in contrast to this with respect to what occurred for veterans who served in Korea post the armistice period. The minister is willing to stand in this place and indicate strong support for our troops but he rushed out and made statements in contrast to this with respect to what occurred for veterans who served in Korea post the armistice period. You will recall, Mr Deputy Speaker, that this government has made considerable statements, and probably rightly so, about respect and admiration for our existing troops but I have to say that the proof is in the pudding: the level of support that some of our past serving members of the military have received from this government. It is interesting to contrast the two approaches from the government: on the one hand, supporting and saying that their action in terms of the military justice system is a reflection of that; the other being the different standards that they adopt when dealing with the claim for recognition by those service personnel who served in Korea post the armistice period.

While I have taken this opportunity to point out the contrasting attitudes of the government when it comes to the current and former Defence Force, I should not want to be considered as having a lack of respect for any men or women who have offered their service in defence of the country. On a personal note I make no distinction between current and former service men and women; as far as I am concerned they have, in most cases, willingly put themselves forward to defend our nation’s interests. This is a noble character trait and one deserving of our recognition and support.

Recently I had the opportunity to experience military life personally through my participation in the Australian Defence Force exchange program. I take this opportunity to thank all of the men and women who looked after me during the week I spent at RAAF Base Williamtown, north of Newcastle. In particular, I would like to thank the base commander, Mr Wal Mazzoni, Air Commodore of Air Combat Group, Geoff Brown, and Air Commodore of Surveillance and Response Group, Tim Owen. Spending a week in that environment with people who have been and continue to be deployed overseas, doing quite frankly the things that this country needs to be done, instils a great deal of pride. It did not matter whether they were the air commodores or the base commander I referred to, maintenance personnel or clerks:
everybody struck me with their enthusiasm and commitment to duty.

One thing that does strike you when you are going into that environment is that they are all committed to the task at hand, that they all see themselves as having a role. They are not all pilots or navigators but they all make a contribution to the fighting force of the RAAF. I know the member for Lindsay will speak after me and that she is a former RAAF member. I pay regard to their professionalism and commitment. Quite frankly these people showed a dedication during the time I was there and continue to show it on a daily basis, which we as members of parliament and as Australians should be very proud of.

The bill before us to reform the military justice system, as presented by the government, is a missed opportunity. The government has missed a once-in-a-lifetime opportunity for Australia to develop a first-class military justice system for our people which is truly independent of the chain of command. (Time expired)

Miss JACKIE KELLY (Lindsay) (5.19 pm)—I acknowledge many of the comments the member for Werriwa made about our military services, comments which I think are shared by everyone in this parliament. Someone in uniform is different. Being in the military is not the same as any of the other occupations in Australia. That is why we treat our veterans differently from age pensioners or any other people who receive stipends from government—judges or public servants. That is why we have national days which honour victories in battle. When we think of Remembrance Day, Long Tan Day or Anzac Day, we tend in Australia to recognise loss of life, which is an occupational reality for members of the Defence Force. We restrict by these laws a lot of claims that can be made if service personnel lose their life in operations. They are limited to statutory compensation in a way that no other civilian occupations are so limited. So it is natural when we come to a military justice system that we say these cases are special and need to be treated differently. A civilian standard is just not accountable and effective.

If you look at the second reading speech of the Minister Assisting the Minister for Defence on the Defence Legislation Amendment Bill 2006, you see that it is about providing a military justice system that is effective and as fair as possible. In an operational sense, to be effective sometimes is quite contrary to the fairness of things. So it is providing a balance between those two concepts. The most clear example I can give of that is the litigious case that started this whole event, which is known as the ‘Butterworth board of inquiry’. It is notorious in defence circles. There was not a death, there was not a body, there was not a fight, there was not a punch thrown, there was not a command disobeyed, but the military spent $6 million resolving manning issues—$6 million tied up in a military justice system which could have been spent on other assets or personnel for a more effective defence of Australia.

And what was the result of that board of inquiry? A lot of the repercussions resulting from that board of inquiry are still going on. It effectively stopped the careers of some outstanding officers, people who had been fast-tracked for careers throughout the military, and it demonstrated quite clearly the paralysis that had stepped into the command of the military where people were trying to navigate around legal situations. In this situation we had an operational unit that was flying sorties out of Butterworth, which was no longer functional. Yet a commander in that situation coming up from Adelaide could not command because of the legal mire he found
himself in. It then went on to subsequent law cases, and I believe one of the cases is still before the courts. In deference to that, I will not make any further marks about it.

But it led to an expenditure of $6 million on lawyers’ fees, on boards of inquiry and on subsequent investigations into the military justice system that quite clearly said that a military justice system needs to be quick, effective and capable of putting command back into operational units. You cannot paralyse the operations of someone in Afghanistan and Iraq for two years. Operations do not work like that. The military cannot work like that. You cannot paralyse an Australian Defence Force command situation when you are putting people out there in the field and with the increasing tempo that we will see over the next 10 years. We need an effective and fair military justice system as much as possible.

I recognise the reasoning behind the amendment proposed by the opposition. They are seeking to reserve some sort of position so that the court cannot ever be separate from the chain of command. It is a very difficult one to manage, but certainly this legislation goes a long way to removing that chain of command issue that was evident in previous proceedings where the people who established the courts martial, ran the courts martial and appeared before the courts martial were all within a command structure where their officer evaluation reports were written by people affected one way or the other by the military justice system.

The minister acknowledges that there will be a need for further amendments to the Defence Force Discipline Act as additional parts of the government’s response to the report are implemented in the near future. That has been recognised. We take on board the opposition’s amendment, but I think the minister has allowed for that sufficiently with what we are doing here. Having left the Defence Force in 1996 and being here in 2006, 10 years later, to finally see the Defence Force get the military justice system it deserves, I say, ‘Don’t delay this any further.’

The military is different. It needs to be fast, it needs to be efficient, it needs to be effective and it needs to be fair. But it also needs to be a responsive unit, deployable in a timely manner, that can mediate in areas where command has failed. It needs to be able to come up with solutions that allow the command to get back in the field. That has been seen on several occasions in military history, particularly with the Butterworth board of inquiry, to be woefully inadequate under the current Defence Force Discipline Act and our subsequent amendments to it.

The new Australian Military Court will be established with appointed military judges who have security of tenure but who still have the ability to be promoted within that time of tenure. I would like to know who is writing their OERs, but that is yet to be resolved I suppose. We are trying to get things separate from the ordinary chain of command. The court will be provided with appropriate paralegal support so it functions independently. It will be a permanent fixture and it will be mobile. It is a fly-away kit that can go to Baghdad, to East Timor or to Afghanistan to resolve things. It can take evidence by video link. It can take evidence over the phone. It can really hustle things along to get to an outcome that is in the interests of military command and control.

Military commanders need to be able to command. It is quite different from any situation in the civilian sector, where someone who is not getting on with a subordinate can put up with a lot of rubbish as they go through unfair dismissal litigation and then come to a resolution and to some financial
agreement two years later. Men’s lives are at stake, and the situation needs to be resolved expeditiously and in a disciplined manner that ensures corps’ morale and esprit de corps and ensures that things are seen to be fair and that men out of line are being dealt with appropriately and promptly in time to get the rest of the corps in order so that the situation does not undermine an entire command—as happened with the Butterworth board of inquiry, where not only were the operations of the 10 men on active duty paralysed but also the operations of their commander and the commander of that commander back in Adelaide. Everybody’s operations were totally paralysed in that instance. They forgot the one thing that was central to their operations, and that was command. The military needs to have the ability to issue commands that will be obeyed. ‘Yes, sir, how high?’ is the response that you want and the response that you need to get in the military. That is the type of discipline that you are seeking, and it comes from a very effective, fast, efficient and transparent military justice system.

All our forces are trained in the laws of armed conflict, from recruit training to any promotional level, and they are very good at recognising an unlawful order from a lawful one. They know, under the laws of armed conflict, not to obey unlawful orders, but they need to know that there are very serious and very fast consequences if they disobey a lawful command. These consequences will follow you to Baghdad and to the ends of the world, and they will be happening next week or the next day if necessary in order to get this unit back into shape if there is gross disobedience. So that is what we are dealing with.

I think a lot of speakers today have discussed really over-the-top situations, such as alleging that this tribunal would deal with a rape issue in this hurried manner. Under the Defence Force Discipline Act, the Defence Force has always retained the power to refer those matters to the civilian courts. Clearly, in those matters the Defence Force always cooperates completely with the civilian authorities and allows the prosecution of its members. Equally, we are subject to the rules of the International Court of Justice in The Hague if any of our Defence Force personnel breach any of the Geneva Convention.

This is a long overdue step. It is a start in the right direction, and I recognise that there might have to be more amendments to the DFDA. I am thrilled to see this bill finally coming through the parliament. When I saw that it was finally on the speakers list I felt I had to make a contribution, because the issue was certainly on my mind. I remember in 1996 when, as a newly elected member in my first parliament, I was called to give evidence at the Butterworth board of inquiry, and I certainly mentioned on that occasion that the chain of command in the military justice system was hampering outcomes. The unavailability of part-time and Defence Reserves magistrates was certainly hampering the timeliness of these matters being heard. By having full-time, dedicated judges travelling around Australia and the world we can get these things dealt with in a much more timely manner.

I remember one instance when I was working in the Defence Force where it took 18 months to nearly two years to get a matter heard because of the unavailability of the prosecuting officer, the defending officer and the Defence Force magistrate. It took that long to find a date when they were all available and a five-day window in which the matter could be heard. That should no longer occur. If you have a matter that will take a five-day hearing, you can establish that and have it organised for next week if you want to under this proposed system, rather than being at the vagaries of the private practice
of people and other private civilian trial matters.

I do not think I have much more to add to the comments of speakers who have gone before, except to say that I will be very interested to see how this goes. I do hope that the minister, when appointing the Australian military judges, particularly the Chief Military Judge, pays strong regard to the experience of people in the military and their understanding of command and control issues in uniform and on operations. I think the effectiveness of the military in this instance overrides the concerns of the opposition and others on the other side of the House as to the fairness vis-a-vis the civilian court system. They will be as fair as possible under a military operating environment, where certain outcomes and imperatives are essential to the effective operations of the defence of Australia and the prosecution of our defence goals and humanitarian relief overseas. So I strongly commend the bill to the House. I hope it is signed off and given assent this year and that it comes into effect pretty quickly to really start the wheels rolling for an effective and fair military justice system.

Mr MELHAM (Banks) (5.34 pm)—My attitude to the Defence Legislation Amendment Bill 2006 can be summarised as follows: if someone puts on a uniform for their country they are entitled to a rolled-gold system of justice, not a second-rate system of justice. I think that, for too long, some compromises have occurred that, frankly, are unacceptable in our modern society. There have been a number of inquiries over the past decade and a number of publicly aired complaints by former and serving personnel, their families and other community members which suggest that the military justice system is flawed. I am not going to name them, but there have been a number.

Each of the inquiries did identify flaws in the ADF military justice system and processes, and they recommended changes. Whilst some of the recommendations have been acted upon, there also appears to be an element of resistance within the ADF which views the military justice system as sound, even if at times it has not been applied as well as we would like. I repeat my view: if you put on a uniform then the least your country can do is provide you with a system of justice that is not a second-rate system of justice. I do not believe that the putting on of a uniform allows the defence forces to compromise on basic principles that in many ways really need to mirror civilian principles.

The Law Council of Australia put forward a submission which I thought identified a number of areas that were worth consideration. Their submission is summarised as follows:

- The structure of the Australian Military Court may lead to problems with respect to the independence of the court and the attractiveness of the offices of the military judiciary;
- The limitation of terms to 5 years is unlikely to overcome these problems and may further undermine the perceived independence of judicial officers ...

I interpose here that perception is important. I think that, in terms of the military, it is important that there is a perception which leads to confidence in the system. That is not to say that actual independence is compromised, but if there is a perception that it is compromised that needs to be addressed. The Law Council also says:

- The minimum rank of Military Judges, compared to the minimum rank of the Director of Military Prosecutions, may undermine the perception of the importance and authority of judges in the Military Justice System;
Compulsory retirement of Military Judges and the limited scope for continuing practice while serving part-time may limit the attractiveness of the office of Military Judge and diminish the pool of suitable candidates;

- Staffing arrangements and resources for the Australian Military Court should be set down under legislation; and

- The possible extension of 5-year terms may lead to the perception that Military Judges are beholden to the military chain of command or political appointers.

Each of those might not seem important to ordinary members of the community, but they are important because they go to the heart of whether there is perceived independence of the judicial officers involved in the system.

I understand that there are a number of amendments that will be moved to the legislation when we come to the consideration in detail stage, and those will clarify that the Australian Military Court is a court of record. I commend the government on the way it has picked up many of the recommendations of the Senate committee and the subsequent comments that have led to these amendments that will be put before the parliament for this bill.

This is not an area where either side of politics has the high moral ground. This is not an area where either side of politics should politicise. This is an area where, as a parliament, both the government and the alternative government should come together to ensure that there is a piece of legislation that passes this parliament that has the overwhelming support of this parliament in sending a message to the community and to those in our armed forces that the parliament is as one on these issues. So I think it is important that the government has responded to a Senate inquiry and evidence that at some times exposed some problems with the way the system was operating.

But I also think that senior people responsible for this area within the armed forces should also accept that you cannot live in the past—you cannot hang onto a culture that is out of sync with community standards and community values and that does not allow your service personnel procedural fairness and a proper consideration of matters that might be heard relating to them. Yes, sure, there are instances where people might not be found guilty under the system. That is not the end of the world. People should be given the benefits of a proper process and reasonable doubt in relation to these matters. I understand that my colleague at the table, the member for Bruce, will use some anecdotal examples—and I do not want to steal those—from the past.

I think it is a good thing that these changes have resulted from an inquiry that was conducted by both sides of politics in the Senate in a very conscientious and respectful way for the services. It seems to me that you get yourself into problems if you go into denial mode and seek to justify practices on the basis of: ‘That’s the way we do business. If we didn’t do it this way, it would create problems for us, or it would be too much of a hassle.’

The second reading amendment to the Defence Legislation Amendment Bill 2006, which has been moved, is critical of the fact that the Australian Military Court is ‘not in line with chapter III of the Constitution as recommended by the Senate Foreign Affairs, Defence and Trade References Committee report of June 2005’. It goes on to say:

... as the appointments to the court and juries are restricted to serving military personnel, the new court can never be separate from the chain of command and the provisions of the Bill therefore maintain the long unsatisfactory compromise which denies the true independence, fairness and objectivity essential for the proper functioning of the military justice system.
I think that is a legitimate criticism. The government have made a policy decision in terms of the path that they want to proceed down. Given that the government have the numbers in the Senate and in the House of Representatives, it is reasonable to suspect that they will get their legislation through as it is and with the amendments they propose. But, quite frankly, this means that the legislation remains a work in progress. It is inevitable that, at some stage in the future, the parliament will have to revisit the operations of the Australian Military Court, and it should do so on the basis of evidence of the way it operates.

I know that the shadow minister at the table, the member for Bruce, will have some things to say about the bill, but the point I want to emphasise is that those of us who have come from a legal background, as I have—before I came into parliament I was a legal aid solicitor and a public defender, a legal aid barrister, defending people charged with serious criminal offences—bring to bear our experience of a civil system that has served us well. I do not accept the argument that there should be differential principles. I know that there might be a need to change the practical applications because of the way things work—people have to go to battlefields et cetera; that is all explainable—but inferior systems that do not inspire confidence because of a perception of a lack independence are not, in my humble opinion, systems that should be defended. We have had an argument, and it is not military one, about the way David Hicks has been dealt with to date and how it is proposed he be dealt with. In my view, it is unacceptable because a second-rate system of justice is being proposed. American personnel cannot be dealt with in the way that David Hicks is being dealt with. They are dealt with through their civil courts.

There is nothing more that I want to say on the legislation. A lot has been said by previous speakers, and I know that subsequent speakers will have a few other things to say. We say these things in good faith, with no malice towards our service personnel. Given the number of reports that we have had, let us learn from the mistakes of the past and not repeat them. Let us improve the system instead of accepting one that we are just going to tamper with and that, on the face of it, looks as though it is fixing the problems of the past but is not. That is where I leave my question mark on what we are getting in this legislation compared to what we could be getting as recommended by the Senate committee.

Mr Griffin (Bruce) (5.49 pm)—I never like following the member for Banks when it is about legal matters in particular or about matters in relation to the Indigenous community or human rights because he always knows a lot more about these issues than I do. But, not to worry, I am joined by the minister at the table, the member for Moreton. I like following him because I always know more about things than he does. That is certainly my experience anyway and the experience of others, so they tell me.

I rise today to speak on a very important bill—the Defence Legislation Amendment Bill 2006. I support the amendment moved by the shadow minister for defence and congratulate him on his very thoughtful and thorough contribution to this debate. The military justice system exists to maintain discipline and to reinforce the chain of command in the Australian Defence Force. Australia’s military justice system has two distinct but interrelated elements: the discipline system and the administration system. They provide the framework for investigation and prosecution of offences committed under the Defence Force Discipline Act 1982 and the maintenance of professional standards in the
ADF and the investigation of certain occurrences, such as accidental deaths of ADF personnel.

In a submission to the Senate inquiry into the system conducted between 2003 and 2005, the then Chief of the Defence Force, General Peter Cosgrove AC, MC, explained:

Establishing and maintaining a high standard of discipline in both peace and on operations is essential for effective day-to-day functioning of the ADF and is applicable to all members of the ADF.

He went on to say:

... the unique nature of ADF service demands a system that will work in both peace and war. Without an effective military justice system, the ADF would not function. Due to the importance of this system to our defence personnel, I am honoured to speak on the Defence Legislation Amendment Bill 2006 today. I will be addressing the technicalities of the bill soon but, firstly, I want to briefly recount a part of Australian history that I believe is relevant to our discussion today—that is, the trial of Harry ‘Breaker’ Morant and its surrounding controversies.

Breaker Morant was a popular knockabout Australian character who found his way to the Boer War. Morant had immigrated to Australia in the early 1880s and settled in outback Queensland. Over the next 15 years, working in Queensland, New South Wales and South Australia, Morant made a name for himself as a ‘hard-drinking, womanising bush poet and gained renown as a fearless and expert horseman’. In 1899 he volunteered for military service and in 1900 was sent to Transvaal in South Africa as part of the South Australian Mounted Rifles. But in early 1902 he found himself on trial. The main charges were that between July and September 1901 Morant had incited his co-accused, Lieutenants Hancock and Witton, and others under his command to murder some 20 people, including the Boer commando Visser, a group of eight Boer POWs, Boer civilian adults and children, and the German missionary, Hesse.

Morant’s involvement in the deaths of Visser and the eight POWs has never been in dispute, since he openly declared during the trial that he had ordered them to be summarily executed. However, throughout the proceedings he staunchly maintained that he had done so because of his superiors’ orders to take no prisoners and because of the provocation occasioned by the killing and post-mortem mutilation of one of his closest friends. He also insisted that he had been certain that those he executed had been members of the party that had killed Hunt and defiled his body.

I do not want to address any more of the actual circumstances surrounding the case. It is the validity of the court martial that remains the main issue. The disappearance of the original trial records has prevented a full investigation of this matter for over a century. In their absence, historians have been forced to rely primarily on Witton’s memoir, which is very detailed but must necessarily be considered a biased view. The early stages of the trial were, as noted above, comparatively relaxed affairs by military standards. The accused were not kept under close arrest and were often allowed to move about the fort and the town. On one occasion, Witton was even escorted to a cricket match—much to the surprise of the court president, who was also in attendance. Unknown to Witton, the judge had that very day secretly sentenced him to death by firing squad.

In both the Visser and the eight Boers matters, none of the accused was informed of either the verdicts or the sentences until well after the trial. There was apparently no attempt to conduct any form of forensic examination of the bodies of the alleged victims and all the so-called evidence about the
killings was verbal testimony collected long after the events. The vast bulk of this testimony was uncorroborated or hearsay evidence obtained during the preceding court of inquiry, much of it apparently gathered from disaffected former carbiners who, if Witton is to be believed, harboured considerable animosity towards Morant and Hancock.

The last phase, the hearing of the Hesse matter, was in stark contrast to the relatively relaxed atmosphere of the earlier phases. Suddenly and without warning, just after the conclusion of the eight Boers matter, the accused were placed under close arrest, put in irons, removed from Pietersburg and taken under heavy guard to Pretoria. This final phase was also conducted in camera, whereas the earlier parts of the trial, in Pietersburg, had been open to the public.

The outcome of the trial was a foregone conclusion. Morant and Hancock were found guilty and sentenced to death by firing squad. Witton was also sentenced to death but this was commuted to life imprisonment by Kitchener. After signing Morant’s and Hancock’s death warrants, Kitchener disappeared on tour, thus removing himself from any attempt to secure their reprieve. Shortly after 5 am on 21 February 1902, Lieutenants Harry Morant and Peter Hancock were led out to be executed by firing squad. Both men refused to be blindfolded. Morant gave his cigarette case to the squad leader and his famous last words were:

Shout straight, you bastards. Don’t make a mess of it.

It was not until a month later that the news reached Australia of the trial and death of Breaker Morant.

Apart from my love of Australian military history, why bother recounting this story today?

Mr Snowdon—Good question!

Mr Griffin—I am joined by the member for Lingiari, and of course it is a good question. The story of Breaker Morant teaches us a few lessons that are extremely relevant to the bill before us today. It is a controversial story and a story that is from a completely different time with different circumstances to those of current cases. That said, the lessons I draw from it are relevant to my thoughts on Australia’s military justice system. It teaches us the importance of a fair and impartial trial for military personnel. Impartiality and fairness must be both actual and perceived. It teaches us that arbitrary non-reviewable decisions imposed on personnel by the system will reduce the public’s confidence in the military justice system. It also demonstrates what can be seen as a wide gap between justice afforded to military personnel and that afforded to normal civilians. This is something we need to keep in our minds when considering the adequacy of the bill before us today.

Why are we here today? We are here today because it has become widely recognised that Australia’s military justice system is not delivering the results that it should. Over the past decade, a number of court challenges and publicly aired complaints brought by former and serving personnel, their families and other community members have suggested that the military justice system is flawed. Over the last decade there have been a significant number of official inquiries into, or related to, Australia’s military justice system. These have included the 1997 *Study into the Judicial System under the Defence Force Discipline Act* by Brigadier the Hon. Mr Justice Abadee; the 1998 Commonwealth Ombudsman’s *Own motion investigation into how the ADF responds to allegations of serious incidents and offences*; the 1999 *Military Justice Procedures in the Australian Defence Force* by the Joint Standing Committee on Foreign Affairs, Defence and Trade; the
same committee’s 2001 *Rough justice? An investigation into allegations of brutality in the Army's Parachute Battalion*; the 2001 Burchett QC *Report on the inquiry into military justice in the Australian Defence Force*; and the 2002-03 Western Australian Coroner’s investigation of fire onboard HMAS Westralia.

Each of these inquiries identified flaws in the ADF military justice system and processes and recommended changes. The last inquiry that was held was the Senate Foreign Affairs, Defence and Trade References Committee inquiry into the effectiveness of Australia’s military justice system. I quote from some of the committee’s conclusions:

The committee is unanimous in its view that the military justice system has reached a watershed in its development. It has been some twenty years since the last wholesale review of the discipline system. During that same period, as described by the Inspector General, the civilian administrative law has undergone enormous change. The military system has attempted to keep up with this pace of change and has done so quite well but it has the appearance of having been largely reactive and piecemeal. There have been numerous initiatives but these lack a coherent and an independent structure.

They also concluded:

It is in the public interest to have an efficient and effective military justice system. Just as importantly, it is in the interest of all servicemen and women to have an effective and fair military justice system. Currently they do not.

The committee commented on reforms undertaken by the ADF leading into the review, saying that they recognised:

… the measures introduced over the last decade by the ADF in response to many of the problems that have again been identified. The fact that these problems continue to be highlighted in this report demonstrates those initiatives are not fully resolving many critical issues.

These were the unanimous conclusions of the committee, from which no government member on that committee dissented. From these conclusions a number of recommendations were made. This bill today forms part of the government’s response to some of these recommendations. It is a further instalment of the government’s response to the report of the Senate Foreign Affairs, Defence and Trade References Committee on the effectiveness of Australia’s military justice system. The bill makes three principal amendments to the Defence Force Discipline Act. First, it creates the Australian Military Court; second, it creates military juries; third, it creates a power for the CDF to set up what is titled a ‘Chief of Defence Force Commission of Inquiry’. It also provides for changed appeals provisions, categorises offences for the purpose of trials and makes a number of other consequential amendments, including transitional arrangements.

This bill would establish a permanent Australian Military Court under the Defence Force Discipline Act 1982 to replace the current system of courts martial or Defence Force magistrates. As we have heard, the government’s model for the court, as proposed in this bill, does the following: it creates the Australian Military Court within the Defence Discipline Act; its judges must be serving officers of legal experience; reappointment will only occur in exceptional circumstances; on conclusion of their term judges are to be compulsorily retired—if they reach retiring age during term they are also disqualified; part-time judges are not allowed to engage in any other employment outside their duties; if a judge ‘no longer meets his or her individual service deployment requirements’ they may be dismissed; nominees are put to the minister for appointment by a departmental committee; the chief military judge is to be of a rank no lower than one-star general, which is equivalent to the DMP and the registrar; a military judge is to be of no lower rank than com-
mander or equivalent; and, finally, staffing resources are to be supplied from defence members and public servants employed under the Public Service Act.

There is no way that this new court will be independent of the chain of command, nor is it equivalent to what the Senate committee had proposed. The new court is in fact not that different from the system that it seeks to replace. In a report on this legislation, Labor senators commented on the form that this court was to take. They said:

Labor’s principal concern is that the legislation completely ignores the substantive basis of the committee’s recommendation for a Military Court which was that such a court should have all the attributes of a court set up under Chapter III of the Constitution. The assertion by the government that this bill implements the committee’s recommendation is therefore at best misleading, and deliberately so. The Military Court proposed in this bill has none of the attributes of a civilian court, and as expressed in evidence by witnesses, is nothing other than a re-badging of the current unsatisfactory tribunal system. The shortcomings listed in the committee report form the basis of this judgement, to which must be added the power and process of appointment, which remain totally within the military, and the requirement that all appointees remain purely military.

Furthermore, they noted that the Judge Advocate General had reservations about the court. They said:

In evidence to this committee, the Judge Advocate General (JAG) questioned the conduct of criminal trials by Service tribunals. He was concerned because they ‘are not established under Chapter III of the Constitution, and might not be thought to afford the protections provided by those courts’. He mentioned the possibility of the most serious charges being laid against Australian Defence Force (ADF) members and the inappropriateness of the proposed AMC having jurisdiction over crimes such as rape and murder. The Law Council of Australia added weight to the JAG’s argument. It noted the potential for the AMC to be involved in ‘very serious matters’ and gave the example of any possible charges arising out of the Kovco inquiry and the shooting of the Iraqi security guards by Australian troops. It questioned whether the High Court would uphold a tribunal’s constitutional entitlement to adjudicate these issues when it bears a greater resemblance to the Administrative Appeals Tribunal (AAT) than a court. It concluded:

This increases pressure for the inevitable challenge to be brought on the grounds of fairness and impartiality, challenges which have often been brought in the past and are likely to be brought with increasing frequency if this legislation is passed.

There are also concerns that the new court is more like a tribunal, a tribunal that is well and truly within the military’s chain of command. The Judge Advocate General in his submission to the committee inquiry stated:

The AMC will have complete (and exclusive) Australian jurisdiction over members of the ADF outside Australia. Given the present and likely future tempo of operations and exercises, it is entirely foreseeable, if not likely, that there will be charges of the most serious offences (such as rape or murder) against members of the ADF at some stage. The AMC would be the only Australian court which would have jurisdiction. The notion that such charges would be dealt with by a body described as a “tribunal” ... is extraordinary.

In legal terms there has long been a debate about the authority of military tribunals. These tribunals have been challenged in the High Court for their lack of judicial independence and impartiality. This concern was canvassed by the recent inquiry into this legislation. At this hearing the view expressed by the Judge Advocate General is that the closer such a tribunal can be aligned with the arrangements for a court established along the lines of a chapter III court the less likely a challenge may be.

A hearing has been set aside in February 2007 for the full High Court to hear a challenge to the validity of current service tribunals. Therefore, it could be said that this pro-
posed legislation does nothing to save the AMC from a constitutional challenge; instead it threatens the effectiveness and independence of the court.

So instead of this government introducing real reforms we have here only a half-hearted attempt at developing a new Australian Military Court. Unfortunately, the government has ignored the excellent work of the Senate committee in its initial hearing on military justice and its subsequent hearing into this legislation. This court is in no way independent as claimed by the government. While the bill does take some steps in the right direction, we believe they do not go far enough.

I would like to make a brief comment on the Chief of Defence Force commission of inquiry. Such inquiries will be mandatory, and the appointee to conduct them will be a civilian. This is in contrast to the government’s attitude on the development of a military court, where only ADF personnel can serve. We largely view this as a positive mechanism that can aid Defence in getting to the bottom of some of the more tragic incidents that have occurred in the past, such as suicides, bastardisation, harassment and accidental deaths.

I support the amendment moved by the member for Barton today. Labor is reserving its right to further examine the amendments proposed today with a view to potentially rejecting some or suggesting further amendments. I find it amazing that for legislation of such importance this government is arrogant enough to introduce a bill so shoddy that a government chaired committee has shot it down in its original form. Then it presented its amendments to the bill only a few hours ago, leaving no time for proper scrutiny of these amendments. This is incompetence at best.

There is no doubt that the bill does contain some positive initiatives, which Labor does welcome as a step in the right direction. However, there is also no doubt that this bill does not go far enough and fails to deliver real reform. This government had a great opportunity here and yet again it has let it pass. Instead we have seen the same level of administrative incompetence and sloppy legislative processes that we are all becoming increasingly accustomed to from this government.

The provision of a military justice system that is based on fairness and impartiality is not just an issue of justice; it is also an issue of national security. In my capacity as shadow minister for veterans’ affairs I have had the privilege of speaking to a wide variety of veterans across the country. One resounding message I always receive from the veteran community is that the way we treat and look after our service personnel is directly related to the quantity and quality of recruitment and retention in the ADF. This point relates directly to the topic we are discussing today—namely, the administration of Australia’s military justice system.

One of the biggest strategic challenges that we now face in the area of defence is that of recruitment and retention. If we want to improve this we must improve the conditions for our serving personnel. It seems logical to me that one of the best ways to do this is to provide a fair and impartial military justice system that affords a level of justice that is equal to that enjoyed by the rest of the population.

We want potential applicants to be confident that when they join the ADF they are joining an organisation where they will be offered the same standard of justice that they receive while they are a civilian. We also want parents who have children contemplating a career to not have to fear that their child will be the subject of injustice, as has too often happened in the past. As veterans
of our ADF constantly tell me, the way we treat our service personnel during and after their career will have one of the biggest effects on the levels of recruitment and retention.

The crux of the matter really is that our ADF members should be afforded all of the protections offered to normal civilians. Justice for one should be justice for all. We should not be implementing reforms that will leave Caesar to judge Caesar.

The handling of this bill by the government has been a disaster. They have refused to implement the recommendations of the Senate committee’s highly respected report into the effectiveness of our military system. They have ignored the concerns of their own members. They have been forced to add last-minute amendments to the bill, largely due to their misunderstanding of the issues. They have not consulted widely enough on the bill.

This haphazard approach is typical of this government’s approach to matters affecting our national security. Whenever it comes to the armed forces, the government are extraordinarily quick to wrap themselves in the flag and be photographed with them. They hope that photos with our service men and women will somehow help them maintain a myth that they are masters of national security. Well, these so-called masters of national security have provided us with the biggest national security scandal in our history with the AWB and then offered the defence of incompetence and negligence as if that were somehow acceptable. They have led us into Iraq, now largely a civil war, whilst withdrawing prematurely from both Afghanistan and East Timor despite Australia’s more direct strategic interests in these areas. They have experienced constant problems delivering defence capabilities, ensured we will have an air combat capability gap, provided little to no direction for our strategic outlook despite a rapidly changing strategic environment and used and abused the ADF and veteran population for largely political purposes. Finally, they have now failed to deliver on a once-in-a-lifetime chance to deliver real military justice reforms. Instead, we see a bill that they could not get right the first time and that is now only a half-hearted attempt at addressing the issues.

We will be further examining the amendments provided by the government today in the hope that they have corrected some of the bigger flaws of this legislation. The Australian people deserve better than this. The service men and women of this country deserve better than this. They deserve a government that is less show and more results when it comes to national security and the ADF. I support the amendment moved by the shadow minister for defence.

Mr Snowdon (Lingiari) (6.09 pm)—While he is still in the chamber, I want to thank my colleague the member for Bruce for his erudite contribution on the Defence Legislation Amendment Bill 2006. He outlined very succinctly and in very clear terms the case that we have and our concerns over this piece of legislation, which implements changes to the military justice system that are contained in the government’s response to the Senate Foreign Affairs, Defence and Trade References Committee report of 2005 entitled The effectiveness of Australia’s military justice system. This bill will see the creation of a new Australian Military Court to replace courts martial and the Defence Force magistrate, create military juries and make a number of procedural changes. The bill also provides for a new Chief of Defence Force commission of inquiry to be undertaken in the sad event of a suicide or a death in service of Australian Defence Force personnel.
I am happy to support reforms to the military justice system, but I am concerned about the inadequacies of this legislation. I refer members of the chamber to the second reading amendment which has been moved by the shadow minister, which outlines very clearly the concerns that we have about this piece of legislation—firstly, that the establishment of an Australian Military Court and the provisions for that establishment are not in line with chapter III of the Constitution, as recommended by the Senate Foreign Affairs, Defence and Trade References Committee report of June 2005; and, secondly, that the court and juries are restricted to serving military personnel. The new court can never be separate from the chain of command, and the provisions of the bill therefore maintain the longstanding unsatisfactory compromise which denies the true independence, fairness and objectivity essential for the proper functioning of the military justice system.

This bill could do a lot more and go a lot further in ensuring that those who serve in our defence forces receive equality in terms of access to the justice system and the independence, fairness and objectivity that we value in our civilian legal system and that we take for granted but that clearly is not available to members of the Australian defence forces. This bill is a disappointment for those—some of whom are in this chamber—who have sought to develop a military justice system that is appropriate to the needs of Australian Defence Force personnel, is fair and recognises the unique circumstances of their working environment, the chain of command and their obligations to the Australian community.

I note that the efforts we have made in trying to reform the military justice system well and truly pre-date the Senate committee’s 2005 inquiry. Indeed, I was a member of the Joint Standing Committee on Foreign Affairs, Defence and Trade when the committee inquired into the military justice system and released its report *Military justice procedures in the Australian Defence Force* in 1999. I was also a member of the Defence Subcommittee of the Joint Parliamentary Committee on Foreign Affairs, Defence and Trade when it undertook its inquiry *Rough justice? An investigation into allegations of brutality in the Army’s Parachute Battalion*. The report was made in 2001.

In the consideration of the *Rough justice* report, Labor members of the Defence Subcommittee wrote a dissenting report. In that report we expressed our concern about the military justice system’s ability to operate fairly, equitably and in a timely manner. While the incidents that the subcommittee was asked to investigate were most disturbing, in the opinion of the authors of the dissenting report—me included—the most critical issue was that confidence needed to be restored in the military justice system. I remain of the view that we need to do something to ensure confidence is restored in the military justice system. I do not believe this bill, despite whatever merits it may have, goes far enough to do so.

I want to pick up on the observations of the previous speaker, the member for Bruce, and his concerns about the shoddy way in which this piece of legislation has been dealt with and the government’s own amendments which have been tabled today. This reflects the shoddy approach that has been adopted by the government in its haste to bring this legislation into the chamber. This legislation is clearly imperfect, clearly needs a lot more work and clearly needs greater consideration by this chamber.

But, in light of the more recent reports produced by the Senate committee, I share the concerns of the shadow minister for defence that the government’s response to the 2005 Senate committee report did not fully
pick up the recommendations that the committee made. Of course, that is the government’s prerogative, but they would want to have a decent rationale for doing so. And, despite the extensive work undertaken by the Senate committee into Australia’s military justice system—following on, as it has done, from the two reports I referred to previously—and the recommendations that the Senate committee made toward developing a more independent judicial system for the Defence Force, the government have chosen to ignore the very foundation of the committee’s findings and reject some of its key recommendations.

The committee noted that all of its recommendations were:

… based on the premise that the prosecution, defence and adjudication … should be conducted completely independent of the ADF.

This will not be the case if this legislation is passed. The government’s response rejected a number of the recommendations made by the committee that sought to achieve this level of independence. One such recommendation was that the Australian Military Court be set up as an independent court under chapter III of the Constitution. Under this proposal, the court would have stood independent of the defence chain of command—indeed, of the executive branch of the government itself—as other Commonwealth courts do. It is an integral part of the separation of powers in our Constitution and something which we in the community normally take for granted.

I want to express my strong support for the second reading amendment moved by the shadow minister and the concerns that he has expressed, and which I have mentioned previously, about the court not being established as a fully independent court under chapter III of the Constitution; that appointments to the military jury system will be restricted to serving military personnel—that is a serious source of concern; that the new court will not be fully separate from the defence chain of command; and the denial of true independence, fairness and objectivity essential to the proper functioning of the military justice system. I would have thought that the need for a military justice system that is fair, timely and treats those before it equally goes without saying.

The government notes in its explanatory memorandum to this bill that Defence Force personnel find themselves in a unique situation—and they do. The government tells us that the military justice system is one in which:

A knowledge and understanding of the military culture and context is essential. This includes an understanding of the military operational and administrative environment, the unique needs for the maintenance of discipline of a military force in Australia and on operations and exercises overseas. The AMC must have credibility with, and acceptance of, the Defence Force.

Mr Deputy Speaker, it will come as no surprise to you that I can appreciate these requirements.

It is, of course, a time of difficulty, even stress, for the Defence Force in overseas deployments and with the concerns about recruitment and retention because of the obligations they are undertaking on our behalf. I would have thought that under those circumstances addressing military justice issues would be one area requiring the attention of the government when considering these personnel issues—to ensure that the military justice system was fair, treated people equally and was independent. You would think and hope that it would be an attraction to potential recruits to the Australian Defence Force. But what we are fundamentally on about here—certainly what I am on about—is judicial process; we are talking
about basic protections and rights held by all Australians.

When Australians join the Defence Force to serve their country, they and their families should not be expected to give up their rights as citizens that they enjoy and that they are charged with protecting. Why is it that we treat them so differently in that regard? When they are involved in an incident drawing them to the attention of disciplinary and administrative processes—no matter what their capacity in their involvement with those processes—they should not be expected to surrender the right to fair, equitable and timely treatment.

The protections we as civilians enjoy in the courts are fundamental rights; they are fundamental to the proper functioning of the justice system. They are fundamental rights that should be afforded to Australian Defence Force personnel. As I have noted, applying these standards to the military justice system has been the goal of a number of inquiries of this parliament. It has been a personal objective of mine, and I know it has been one for other members on this side of the chamber, certainly since the late 1990s.

A major innovation in this bill is the move from the present system of courts martial and Defence Force magistrates to a new Australian Military Court. The establishment of a military court was discussed by the Senate committee in its report. It was considered necessary to establish an independent system because:

Having considered the evidence before it, the committee holds grave concerns about the ADF’s capacity to conduct rigorous and fair disciplinary investigations.

The Senate committee’s recommendations were:

... the Government amend the Defence Force Discipline Act 1982 to create a Permanent Military Court capable of trying offences under the DFDA currently tried at the Court Martial or Defence Force Magistrate Level.

And:

The Permanent Military Court ... be created in accordance with Chapter III of the Commonwealth Constitution—
as I have already outlined, and—

Judges should be appointed by the Governor-General in Council;

Judges should have tenure until retirement age.

The committee recommended that judges appointed to the permanent military court should be required to have a minimum of five years recent experience in civilian courts at the time of appointment.

The government, as we know now, rejected this recommendation. By and large this was on the grounds that an independent military court established like a civilian court would be unable to meet the requirements of the ADF. The government’s argument was that the ADF needs:

... [a] a military discipline system, the object of which is to maintain military discipline within the ADF. It is essential to have knowledge and understanding of the military culture and context.

It continued:

The Chapter III requirements are not consistent with these factors, and the Government does not support the Chapter III features for a military court.

Labor senators in the Senate committee’s inquiry into this bill noted the evidence of the ADF’s Judge Advocate General that there is some concern about:

... the conduct of criminal trials by Service tribunals ... because they ‘are not established under Chapter III of the Constitution, and might not be thought to afford the protections provided by those courts’.

The proposed new military court to be established by this bill is instead to comprise a chief military judge with two permanent military judges appointed for five years—
Unlike judges under chapter III, who are appointed with tenure—and a panel of part-time judge advocates. All appointees are required to be legally qualified for military service and are to be appointed by the Minister for Defence from a list, selected by a special committee which in turn is to be selected by the CDF.

That is not independence; it is far from it. You could not argue under those circumstances that those members of this court could be seen as independent. It is true that this position in the ADF requires an appreciation of the culture and of military discipline, but it is not beyond the wit and wisdom of people to determine that, understand it and come up with a set of circumstances which provide protections for those matters but at the same time provide a court system which gives members of the ADF, as I said earlier, equal and fair treatment at a standard that would be applied in the civilian community. It is hard to make sense of any argument that ADF personnel should not be entitled to the same legal protections that civilians are when they face the courts. I cannot imagine why that should be the case.

The bill also proposes a Chief of Defence Force commission of inquiry. In the sad event of a suicide or death in service, a commission of inquiry will be mandatory and a civilian will be appointed to conduct it—quite different from the proposals for the court. In the last decade, 79 ADF personnel have taken their own lives. This is both distressing and appalling. Unfortunately, bullying and harassment seem to have been common elements in those suicides—those untimely, very unfortunate and sad events. Having an improved system of investigation truly independent of the chain of command is a very good start. We know that there has been some degree of dissatisfaction with the outcomes of the military justice system in investigating suicides and deaths in service and in implementing measures to prevent these tragedies from occurring in the future. It is interesting that the government is prepared to support a move towards civilian based commissions of inquiry for these very serious issues but patently unwilling to establish the Australian Military Court as a chapter III court, providing similar independence and ensuring that civilians and people with experience in civilian courts are engaged.

Nonetheless, the efforts to improve the way suicides and deaths in service in the Defence Force will be dealt with have my strong support. I hope that, on reflection on the shoddy way in which this piece of legislation has been put together, the government will reconsider its approach and come to understand that we on this side of the chamber—and, indeed, those senators in the other place—have a common interest with the government on this. We are not trying to make political points; this is about trying to provide a system which is fair, reasonable and just for Australian Defence Force personnel. I would urge members of the chamber to support the amendment which has been moved by the opposition.

Mr BILLSON (Dunkley—Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence) (6.28 pm)—I would like to thank members from all sides of parliament for their contribution to the debate today. I would like to offer some views in summing up the discussion and touch on some of the points that were raised. On 14 September 2006 I introduced the Defence Legislation Amendment Bill 2006. On 9 October 2006 the Senate Standing Committee on Foreign Affairs, Defence and Trade considered the bill and a number of submissions that it received. I thank the committee for its consideration of the bill and for bringing to my attention certain matters that it considered should be specifically addressed or
clarified in the bill, which will strengthen the bill as a whole. In my speech presenting the bill I noted the previous defence minister’s comments regarding the Australian Defence Force’s ‘truly magnificent job in defending this nation and its interests’ and the government’s commitment and ‘determination to provide a military justice system that is as effective and fair as possible’. The government continues to express its admiration and appreciation for our defence personnel and the important, challenging, often dangerous activities they undertake both here in Australia and on overseas operations.

To achieve this, as my speech on 14 September outlined, the bill creates a permanent military court to increase the confidence in the military justice system among those it serves and those, more broadly, who observe its operations. The bill proposes to establish a new Australian Military Court that would operate independent of the chain of command. The essence of this judicial independence is reflected in the bill through the principles of security of tenure, security of remuneration and administrative independence. However, the new Australian Military Court must still meet the unique requirements of the ADF, such as the ability to deploy quickly and sit in an operational theatre.

The proposed amendments to the bill outlined today will reinforce this position. The intent of these amendments is to further demonstrate the government’s commitment to installing a best practice military trial system for the Australian Defence Force members and to establish a qualified and experienced military judiciary to ensure a fair hearing and natural justice in the context of the enduring need of the Australian Defence Force to maintain effective discipline and, through that, operational effectiveness.

In meeting this unique mix of requirements, the bill and its amendments must reflect best practice from both the legal and the military perspectives. The amendments I am introducing today address these needs, particularly in relation to the essential military character and status of the Australian Military Court; the structure of the court to meet its predominant caseloads and its exceptional circumstances and to have the capacity to deal with the most serious of offences; the attractiveness of the military judge appointments to the optimum pool of candidates; the maintenance of the level of experience amongst military judges; the rigour of the military jury decision processes; and the clarification of the proposed class of offence regime.

To better maintain a consistent level of experience on the court and to further demonstrate security of tenure, judicial independence and the prospect of career progression, the government agreed that the tenure of military judges would be increased from a period of up to five years to a 10-year fixed period. Whilst there will be no opportunity for reappointment, new provisions will allow for promotion and acting appointments in certain circumstances. These have been included and will recognise the status and the importance of the appointments and increase the attractiveness of the positions to the Australian Defence Force’s legal officer corp.

To further demonstrate the independence and impartiality of these positions, it is intended to replace the Minister for Defence with the Governor-General in the appointment of the Chief Military Judge or a military judge. Automatic promotion in certain circumstances at the midterm point of an appointment has also been provided for; however, the appointments will be subject to the same qualification and service deployment criteria currently contained in the bill for reasons that I outlined earlier. A former Chief Military Judge, military judge or other judicial officer—for example, a judge or a
magistrate of a federal court or a court of a state or territory who is serving in the Australian Defence Force—will be able to act as a military judge in circumstances where the expertise or experience of that person is required in respect of a particular charge.

The AMC was not originally conferred with the status of a court of record and there was no legal or practical reason for doing so. Similarly, it avoided conferring the characteristics of a civilian court with greater jurisdiction on the AMC. However, to further enhance the status of the AMC, the proposed amendments will specify that the AMC is a court of record, noting, however, that there will be provisions to limit the publication of proceedings in the interest of security or sensitivity. The size of a military jury will be reconfigured to align the constitution of a military jury with the class of the offence. For example, a class 1 offence—the most serious offence under the bill—will require a jury of 12 members. A class 2 or 3 offence will require a six-member jury where trial by jury is mandated or elected. The determination of questions by unanimous or majority verdict by the jury has also been altered.

The Australian Defence Force currently has serving judges and magistrates from federal, state or territory courts as reserve members. The proposed amendments will preclude a judge or magistrate from a state, territory or federal court who is appointed as a part-time or acting military judge from receiving remuneration under the DFDA if they receive salary or annual allowances by virtue of their civilian judicial office. The rationale for such a provision is not only to reinforce the independence and the impartiality of military judges but also to counteract any perception of financial advantage, incentive or inducement in the remuneration arrangements surrounding the appointment of a part-time or acting military judge.

However, the provisions also provide a capacity to ensure that a state or territory judge or magistrate will not be financially disadvantaged by the operation of the proposed provisions whereby the minister can enter into any arrangement that might be necessary to secure the services of such a judge. This also includes the possible reimbursement of a state or territory by the Commonwealth. As a consequence, the amendments will also amend the Judges’ Pension Act 1968 so that a military judge appointed to the AMC under the DFDA is not eligible for a pension pursuant to the Judges’ Pension Act. Lastly, the amendments will correct an anomaly in respect of the reference to the classes of offences in the bill, particularly in schedule 7. Neither the substance nor the intent of the bill in this respect is affected by these amendments.

A modern and professional force deserves a modern and effective system of military justice. Together with the reforms contained in the bill, the proposed amendments will refine and strengthen existing provisions. They will enable the government to provide a system that will better ensure impartiality and fair outcomes and strike an effective balance between the need to ensure effective discipline in the Australian Defence Force and to protect individuals and their rights. In some of the discussions that have been held in this chamber there seems to have been some confusion about the provisions that are being debated. The opposition is, on one hand, critical of aspects of the original bill and it is then, in turn, critical of the government’s responsiveness to legitimate and well-argued points of view presented at the Senate committee hearings. The government listened carefully to those submissions, recognised the merit in a number of them and has acted quite appropriately and in a timely way to respond to those deficiencies which were identified as part of the Senate inquiry, and I
have touched on a number of those amendments.

The changes to the period of appointment—the extension from five to 10 years and the midterm promotion—will not only ensure an attractive opportunity for people who may be considering a role within the Australian Military Court as its chief judge or as a military judge but also secure career promotion midterm so as not to have any suggestion that there is influence on a judge within the chain of command relating to those promotion opportunities. The alternative would have been to not extend the term, and the opposition would have criticised that. To extend the term and not provide an opportunity for promotion would have also drawn some criticism. I think the amendment that has been introduced is quite responsive and elegant in the way that it deals with those dual and competing requirements and expectations.

The other issues relating to the court of record also seek to ensure that the proceedings of the court are available to be reviewed and examined. We have identified and recognised the point that was made during the Senate inquiry and have made those amendments. This is another example where the shelf life of some of the criticisms raised by members opposite had actually expired before the contributions were made in this place. That is not to criticise the opposition for having finalised their speeches prior to the amendments being brought before them, but it does give an opportunity for those listening to this debate and interested in this subject to recognise that those deficiencies most focused upon by the opposition have in fact been addressed in the amendments put before the parliament.

Throughout the discussions about courts martial, members opposite sought to be critical that this was a system that replicates the existing arrangements. A number of points need to be made in that regard. First of all, the Australian Military Court and the provisions within the bill being debated today are but a part of the overall government response to the Senate inquiry into the military justice system. Other elements have already been introduced. One of them is the formation of the position of Director of Military Prosecutions so that there is a consistent, reliable and robust instigation of charges which replaces the current arrangement where more than 30 people within the Australian Defence Force can instigate a charge under courts martial.

There are other areas of work that are proceeding, including the examination of the investigatory powers of the police and the issues relating to culture and training installation—a range of other relevant and germane issues to military justice as canvassed by the Senate inquiry but quite separate from the particular provisions relating to the formation of the Australian Military Court that we are here to discuss today. I would encourage members opposite to actually examine the amendments, to recognise that those amendments enhance a bill before the parliament that was already of some quality and improve it even further, and to recognise that the bill itself and the formation of the Australian Military Court are but a part of a multifaceted approach to dealing with the shortcomings identified by the Senate committee in relation to the military justice system more generally.

Another issue that seems to be constantly argued is the chapter III status of the court under the Constitution. This issue has been discussed and canvassed over and over again. It is the government’s view that the chapter III option under the Constitution would create a court of considerable civilian character and not properly recognise the military requirements that the Australian Military Court must also meet. That should
not give anyone the impression that the protections available within civilian jurisdictions are not available to members of the Australian Defence Force. That is quite incorrect and is a false assertion not based on any fact or any actual provision in these bills.

The avenues for appeal and redress and the opportunity in certain categories of offences for the accused to nominate the form and structure through which that charge will be heard are just some examples of how the checks and balances that are available for people before the Australian Military Court system are, in some cases, enhanced and improved versions of what may exist within the civilian environment. This is because the military is different from the civilian world. Military discipline goes to the heart of the effectiveness of the Australian Defence Force and, in introducing these amendments on top of the bill that was already before the parliament, we seek to further recognise those distinctions but, so far as is possible and practicable, implement the best elements of military justice systems around the world and the best and most appropriate elements of the civilian system.

To try and discredit the court as a tribunal, as I think the member for Barton sought to do, is perhaps applying a label where logic would have been more helpful. At the least serious level of the offences considered by the court, it has some characteristics of a tribunal in its responsiveness and the way in which matters can be progressed. But we also need to recognise that the Australian Military Court needs to be able to function for very serious matters, some with a degree of serious criminality, that we understand and more appropriately deal with within the civilian sphere. There are options under the DFDA where civilian pathways are most appropriate to continue with that. However, where the Australian Military Court needs to hear those most serious cases, there are checks and balances. The size of the jury, the court of record and its composition ensure that the best elements of a civilian court are brought to the processes of the Australian Military Court.

So there is a calibration of the mechanisms and the arrangements presented within this bill in keeping with the severity and seriousness of the crime and embracing the best elements of civilian and military disciplines. I commend the bill and the amendments to the House. I present a supplementary explanatory memorandum to the bill.

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

Question agreed to.

Original question agreed to.

Bill read a second time.

**Consideration in Detail**

Bill—by leave—taken as a whole.

**Mr BILLSON** (Dunkley—Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence) (6.43 pm)—by leave—I present a supplementary explanatory memorandum to the bill and I move government amendments (1) to (40):

1. Schedule 1, item 5, page 3 (line 24), omit “table in”, substitute “table in clause 1 of”.
2. Schedule 1, item 6, page 4 (line 1), omit “table in”, substitute “table in clause 1 of”.
3. Schedule 1, item 7, page 4 (line 6), omit “table in”, substitute “table in clause 1 of”.
4. Schedule 1, item 7, page 4 (line 10), after “imprisonment”, insert “or is not punishable by imprisonment”.

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**CHAMBER**
(5) Schedule 1, item 7, page 4 (line 12), omit “table in”, substitute “table in clause 1 of”.

(6) Schedule 1, item 8, page 4 (line 16), omit “or 188AQ”.

(7) Schedule 1, item 8, page 4 (after line 16), after paragraph (a) of the definition of Military Judge in subsection 3(1), insert:

(aa) except in Divisions 2 and 2A of Part XI, a person appointed as an acting Military Judge under section 188BB; and

(8) Schedule 1, item 11, page 5 (after line 8), after subsection 114(1), insert:

1A The Australian Military Court is a court of record.

(9) Schedule 1, item 11, page 7 (line 26), omit subsection 122(1), substitute:

(1) There are to be:

(a) 12 members on a military jury for a trial of a class 1 offence; and

(b) 6 members on a military jury for a trial of a class 2 offence or class 3 offence.

(10) Schedule 1, item 11, page 9 (lines 1 to 4), omit subsections 124(2) and (3), substitute:

(2) A decision of a military jury on the questions in subsection (1) is to be made by:

(a) unanimous agreement of the jury members; or

(b) if the conditions in subsection (3) are met—five-sixths majority agreement of the jury members.

(3) The conditions are:

(a) the jury has deliberated for at least 8 hours; and

(b) the jury does not have unanimous agreement after that time but does have five-sixths majority agreement; and

(c) the Australian Military Court is satisfied that:

(i) the period of time for deliberation is reasonable, having regard to the nature and complexity of the case; and

(ii) after examination on oath or affirmation of one or more of the jurors, it is unlikely that the jurors would reach unanimous agreement after further deliberation.

(11) Schedule 1, page 12 (after line 32), after item 13, insert:

13A Section 148

Before “A service”, insert “(1)”.

13B At the end of section 148

Add:

(2) The Australian Military Court may order that the whole or a specified part of a record under subsection (1) that relates to proceedings before the Court is not to be published if the Court considers that such a publication would be inappropriate, taking account of the interests of the security or defence of Australia, the proper administration of justice, public morals or any other matter it considers relevant.

(12) Schedule 1, item 17, page 19 (line 8), omit “Minister”, substitute “Governor-General”.

(13) Schedule 1, item 17, page 19 (lines 10 and 11), omit subsection 188AC(2), substitute:

(2) The Chief Military Judge holds office for 10 years.

Note: If, before the expiration of the term of appointment, the Chief Military Judge retires from the Australian Defence Force, he or she ceases to be the Chief Military Judge on retirement: see paragraph 188AL(2)(b).

(14) Schedule 1, item 17, page 19 (lines 12 and 13), omit subsection 188AC(3), substitute:

(3) A person must not be appointed as the Chief Military Judge if the person has been a Chief Military Judge.
Note: However, the person may be appointed as an acting Military Judge under section 188BB.

(15) Schedule 1, item 17, page 21 (line 4), omit “Minister”, substitute “Governor-General”.

(16) Schedule 1, item 17, page 21 (line 6), omit “Minister”, substitute “Governor-General”.

(17) Schedule 1, item 17, page 21 (lines 10 to 12), omit section 188AJ, substitute:

**188AJ No promotion other than automatic mid-term promotion**

1. Subject to subsection (2), the Chief Military Judge is not eligible for a promotion in rank during the period he or she is the Chief Military Judge.

2. The Chief Military Judge is, by force of this subsection, promoted to the next rank on the 5 year anniversary of his or her appointment as Chief Military Judge.

3. However, subsection (2) does not apply if the Chief Military Judge already holds the naval rank of Rear Admiral or the rank of Major-General or Air Vice-Marshall.

(18) Schedule 1, item 17, page 21 (lines 13 to 15), omit section 188AK, substitute:

**188AK Resignation**

1. The Chief Military Judge may resign his or her appointment by giving the Governor-General a written resignation.

2. The resignation takes effect 3 months, or such shorter period agreed to by the Governor-General, after it is given.

(19) Schedule 1, item 17, page 21 (line 17), omit “Minister”, substitute “Governor-General”.

(20) Schedule 1, item 17, page 22 (lines 5 to 7), omit section 188AM.

(21) Schedule 1, item 17, page 22 (line 9), omit “Minister”, substitute “Governor-General”.

(22) Schedule 1, item 17, page 22 (line 27), omit “Minister”, substitute “Governor-General”.

(23) Schedule 1, item 17, page 23 (after line 3), at the end of subsection 188AP(3), add:

Note: This subsection does not prevent the appointment of additional acting Military Judges: see section 188BB.

(24) Schedule 1, item 17, page 23 (lines 4 and 5), omit subsection 188AP(4), substitute:

4. A Military Judge holds office for 10 years.

(25) Schedule 1, item 17, page 23 (after line 5), after subsection 188AP(4), insert:

4A. A person must not be appointed as a Military Judge if the person has been a Chief Military Judge or a Military Judge.

Note: However, the person may be appointed as the Chief Military Judge under section 188AC or as an acting Military Judge under section 188BB.

(26) Schedule 1, item 17, page 23 (lines 8 to 31), omit section 188AQ, substitute:

**188AQ Appointment of part-time Military Judge not to affect tenure etc.**

If a person:

(a) holds the judicial office of justice, judge or magistrate of a federal court; and

(b) is appointed, or serves, as a part-time Military Judge; the appointment or service does not affect his or her:

(c) tenure of that judicial office; or

(d) rank, title, status, precedence, salary, annual or other allowances or other rights or privileges as the holder of that judicial office;

and, for all purposes, his or her service as a part-time Military Judge is
taken to be service as the holder of that judicial office.

(27) Schedule 1, item 17, page 25 (after line 29), at the end of section 188AU, add:

Special rules for part-time Military Judges

(4) If a person:
   (a) is a justice, judge or magistrate of a federal court, or of a State or Territory court; and
   (b) is appointed as a part-time Military Judge; and
   (c) receives salary or annual allowance as such a justice, judge or magistrate for the period of the appointment as a part-time Military Judge;

then he or she is not entitled to renumeration under this Act for that period.

(5) If a person is a justice, judge or magistrate of a State or Territory court, the Minister may, for the purpose of appointing the person as a part-time Military Judge, enter into such arrangement with the appropriate State or Territory Minister as is necessary to secure the person’s services.

(6) An arrangement under subsection (5) with a State or Territory Minister may provide for the Commonwealth to reimburse the State or Territory with respect to the services of the person to whom the arrangement relates.

(28) Schedule 1, item 17, page 26 (line 4), omit “Minister”, substitute “Governor-General”.

(29) Schedule 1, item 17, page 26 (line 6), omit “Minister”, substitute “Governor-General”.

(30) Schedule 1, item 17, page 26 (lines 15 to 18), omit section 188AX, substitute:

188AX No promotion other than automatic mid-term promotion

(1) Subject to subsection (2), a Military Judge is not eligible for a promotion in rank during the period he or she is a Military Judge.

(2) A Military Judge is, by force of this subsection, promoted to the next rank on the 5 year anniversary of his or her appointment as a Military Judge.

(3) However, subsection (2) does not apply if the Military Judge already holds the naval rank of Commodore or the rank of Brigadier or Air Commodore.

(31) Schedule 1, item 17, page 26 (lines 19 to 21), omit section 188AY, substitute:

188AY Resignation

(1) A Military Judge may resign his or her appointment by giving the Governor-General a written resignation.

(2) The resignation takes effect 3 months, or such shorter period agreed to by the Governor-General, after it is given.

(32) Schedule 1, item 17, page 26 (line 23), omit “Minister”, substitute “Governor-General”.

(33) Schedule 1, item 17, page 27 (lines 16 to 20), omit section 188BA.

(34) Schedule 1, item 17, page 27 (after line 20), after section 188BA, insert:

188BB Acting Military Judges

Recommendation to appoint an acting Military Judge

(1) If, after receiving advice from the Chief Military Judge, the Minister considers that a charge that has been, or will be, referred to the Australian Military Court requires the experience or expertise of a person who:
   (a) has been a Chief Military Judge or Military Judge; or
   (b) is, or has been, a justice, judge or magistrate of a federal court, or of a State or Territory court;

the Minister may make a recommendation to the Governor-General that the person be appointed to act as a Military Judge to try the charge and, in the case of a conviction, take action under Part IV.

Appointment

(2) If the Minister makes such a recommendation, the Governor-General may,
by written instrument, appoint the person as an acting Military Judge.

Qualifications
(3) However, the Governor-General must not appoint the person unless:
(a) the person is enrolled as a legal practitioner and has been so enrolled for not less than 5 years; and
(b) the person is a member of:
   (i) the Permanent Navy, the Regular Army or the Permanent Air Force; or
   (ii) the Reserves; and
(c) the person holds a rank not lower than the naval rank of commander or the rank of lieutenant colonel or wing commander; and
(d) the person meets the person’s individual service deployment requirements.

Term of appointment
(4) An acting Military Judge holds office for the period specified in the instrument of appointment. The instrument must provide that the period ends on:
(a) if the proceedings for the charge are terminated without the accused person being acquitted or convicted—the day of the termination; or
(b) if the accused person is acquitted—the day of the acquittal; or
(c) if the accused person is convicted—the day that action is taken under Part IV.

Appointment to be part-time
(5) An acting Military Judge holds office on a part-time basis.

Resignation
(6) An acting Military Judge may resign his or her appointment by giving the Governor-General a written resignation. The resignation takes effect 2 weeks after it is given.

Terms and conditions etc.
(7) The following provisions apply to an acting Military Judge as if a reference to “Military Judge” in those provisions included a reference to “acting Military Judge”:
(a) section 188AQ (appointment not to affect tenure etc.);
(b) section 188AT (oath or affirmation);
(c) section 188AU (remuneration);
(d) section 188AV (leave of absence);
(e) subsection 188AW(2) (outside employment);
(f) subsection 188AX(1) (no promotion);
(g) section 188AZ, other than paragraph 188AZ(2)(b) (termination of appointment).

(35) Schedule 1, item 19, page 28 (after line 9), after the note, insert:

1 Classes of offences
The following table sets out whether a service offence is a class 1 offence, class 2 offence or class 3 offence.

(36) Schedule 1, item 19, page 31 (table items 96 to 101), omit the table items, substitute:

| 96 | subsection 61(1), if clause 2 of this Schedule is satisfied |
| 97 | subsection 61(1), if clause 3 of this Schedule is satisfied |
| 98 | subsection 61(1), if clause 4 of this Schedule is satisfied |
| 99 | subsection 61(2), if clause 2 of this Schedule is satisfied |
| 100 | subsection 61(2), if clause 3 of this Schedule is satisfied |
| 101 | subsection 61(2), if clause 4 of this Schedule is satisfied |
subsection 61(3), if clause 2 of this Schedule is satisfied

subsection 61(3), if clause 3 of this Schedule is satisfied

subsection 61(3), if clause 4 of this Schedule is satisfied

2 Section 61 offences that are class 1 offences

This clause is satisfied if:

(a) for an offence against subsection 61(1) — section 63 applies to the offence; or

(b) for an offence against subsection 61(2) or (3) — section 63 applies to the offence, or would apply if the offence were committed in Australia.

3 Section 61 offences that are class 2 offences

This clause is satisfied if clauses 2 and 4 are not satisfied.

4 Section 61 offences that are class 3 offences

This clause is satisfied if:

(a) section 63 does not apply to the offence; and

(b) any of the following apply:

(i) the offence has a maximum penalty of not greater than 5 years imprisonment;

(ii) the offence is not punishable by imprisonment;

(iii) the offence may be heard and determined by a civil court of summary jurisdiction.

2 Section 61 offences that are class 1 offences

This clause is satisfied if:

(a) for an offence against subsection 61(1) — section 63 applies to the offence; or

(b) for an offence against subsection 61(2) or (3) — section 63 applies to the offence, or would apply if the offence were committed in Australia.

3 Section 61 offences that are class 2 offences

This clause is satisfied if clauses 2 and 4 are not satisfied.

4 Section 61 offences that are class 3 offences

This clause is satisfied if:

(a) section 63 does not apply to the offence; and

(b) any of the following apply:

(i) the offence has a maximum penalty of not greater than 5 years imprisonment;

(ii) the offence is not punishable by imprisonment;

(iii) the offence may be heard and determined by a civil court of summary jurisdiction.

Judges’ Pensions Act 1968

31A Subsection 4(1) (paragraph (a) of the definition of Judge)

After “Magistrates Court”, insert “or the Australian Military Court”.

(39) Schedule 1, page 35 (after line 8), after item 33, insert:

33A Paragraph 89(1)(d)

Repeal the paragraph, substitute:

(d) do any other act or thing that:

(i) in the case of the Australian Military Court—constitutes a contempt of that court; and

(ii) in the case of a service tribunal other than the Australian Military Court—would, if the service tribunal were a court of record, constitute a contempt of that court.

(40) Schedule 1, page 37 (after line 16), after item 49, insert:

49A Paragraph 53(4)(d)

Repeal the paragraph, substitute:

(d) engages in any other conduct that:

(i) in the case of the Australian Military Court—constitutes a contempt of that court; and

(ii) in the case of a service tribunal other than the Australian Military Court—would, if the service tribunal were a court of record, constitute a contempt of that court.

Question agreed to.

Bill, as amended, agreed to.

Third Reading

Mr BILLSON (Dunkley—Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence) (6.44 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Consideration of Senate Message

Bill returned from the Senate with amendments.

Ordered that the amendments be considered immediately.

Senate’s amendments—
(1) Clause 2, page 2 (table item 3), omit the table item.
(2) Schedule 2, page 26 (line 2) to page 83 (line 26), omit the Schedule.

The DEPUTY SPEAKER (Mr Haase)—
The question is that the amendments be agreed to.

Question agreed to.

Bill, as amended, agreed to.

MIGRATION AMENDMENT (EMPLOYER SANCTIONS) BILL 2006

Debate resumed from 6 September.

Second Reading

Mr ROBB (Goldstein—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs) (6.46 pm)—I present the explanatory memorandum and move:

That this bill be now read a second time.

The Migration Amendment (Employer Sanctions) Bill 2006 sets out a scheme of sanctions on employers and labour suppliers who knowingly or recklessly engage illegal workers.

The government has long had concerns about those who seek to work illegally in Australia.

Our current estimate is that there are around 46,000 visa overstayers in Australia. We believe that a substantial proportion of these people are working illegally to support their stay here.

In addition, a small proportion of the millions of other temporary entrants to Australia each year may work illegally during their stay.

The traditional approach to dealing with the problem of illegal workers in Australia continues to be quite successful.

This approach includes highly effective visa processing arrangements for overseas visitors, students and other temporary residents.

These arrangements prevent the majority of potential illegal workers from entering Australia in the first place.

In other words, unlike many other countries, we deal with most of the problem before it actually becomes a problem.

However, no matter how good Australia’s visa arrangements are, there will still be some people who seek to take advantage of our desire to attract genuine visitors, students and other temporary residents.

This requires the government to allocate significant resources towards locating and removing illegal workers and overstayers.

In the 2005-06 program year there were over 10,000 locations of persons who had overstayed or otherwise breached their visa conditions.

Many of these people were also working illegally in Australia.

The government believes that illegal work causes a number of problems for the Australian community.

First, it takes job opportunities away from Australian citizens and lawful migrants.

Second, the cost of detecting illegal workers is an unwelcome burden on the taxpayer.
Finally, in some cases illegal work is linked to organised crime, particularly in the sex industry.

The government is particularly concerned about circumstances in which women may be trafficked into Australia to work illegally in conditions of sexual servitude, forced labour or slavery.

Despite the recent success of our immigration compliance activities, the government believes that the further statutory reforms contained in this bill are required.

The government’s immigration compliance strategy has been designed on the basis of voluntary compliance.

The government believes that there needs to be provision for imposing sanctions on the small number of employers and labour suppliers who deliberately engage or refer non-citizens without the right to work in Australia.

This bill introduces the required fault-based criminal offences.

The proposed offences will only apply where the employer or labour supplier knew the person was an illegal worker, or was reckless to that fact.

Framing the offences in this way ensures that they can be focused on the employers and labour suppliers of concern to the government, without imposing any additional burden on business generally.

For example an employer will only be ‘reckless’ if there was a ‘substantial risk’ that the employee was an illegal worker.

Recklessness might be proved in a prosecution where a number of basic conditions are satisfied.

It would be easier to prove where the employer operates in an industry where there are relatively high proportions of illegal workers.

These include the construction, hospitality, cleaning, taxi and sex industries.

Another element that might go to proving recklessness is where the employer in question has previously been warned about employing illegal workers and has been given guidance on how to check work rights.

A further element could be that the job applicant says something that indicates they may not be entitled to work—for example, that they are only visiting Australia.

The bill also deals with the various employment-like relationships that feature in illegal work in Australia.

The concept of ‘allowing’ an illegal worker to work is broadly defined to capture work relationships that are commonly used in industries where illegal workers are found.

The government is very concerned that those involved in illegal work in the sex industry should not be able to hide behind devices designed solely to distance themselves from their employees.

That is why this bill includes specific provisions for situations where ‘landlords’ rent premises, intending those premises to be used to provide sexual services.

A feature of the bill is the much higher penalties for offences where aggravating circumstances are present, such as where the illegal worker is in a condition of sexual servitude, forced labour or slavery.

The trafficking of people, particularly women and children, to work under these conditions is a despicable crime.

The government is determined to deal with anyone who knowingly participates in this kind of criminal activity.

This includes employers who may be willing to take advantage of the victims of sexual servitude, forced labour or slavery.
Finally, the offences in this bill will also play a role in preventing some malpractice associated with the 457 visa. For example, where an employer moves a 457 visa holder into a low-skilled or semi-skilled position, the offence in section 245AC of allowing a noncitizen to work in breach of their visa conditions may be committed.

In summary, this bill deals with some very serious issues in Australian society, but does so with an eye to ensuring that only those employers and labour suppliers who are of genuine concern will be affected by the offences.

The bill is the product of a long period of consultation and development and deserves the support of all members of this parliament.

I commend the bill to the House.

Mr BURKE (Watson) (6.54 pm)—The Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs concluded by saying that the Migration Amendment (Employer Sanctions) Bill 2006 deserves the support of all members of this parliament, and it will get the support of all members of this parliament. The opposition will be supporting this legislation. We will also be noting the areas where it does not go as far as we might want it to. We will also be noting some of the limitations in some of the areas that the opposition will seek to monitor. But, importantly, we start with the issue of why it has taken so long.

We are in the final fortnight of sittings for 2006, and I notice this item was in the shadow cabinet brief of May and would have gone to cabinet before that. The explanatory memorandum is dated 29 March 2006, so this item has been on the agenda for a long time without having been brought on for debate in this place. Notwithstanding that, that delay is almost nothing when you consider when the inquiry commissioned by the government said this sort of legislation ought to exist.

We are not even talking about something that came from the last term of parliament. The inquiry, commissioned by the government, that said this sort of legislation ought to be introduced was held in 1999. In 1999 the inquiry recommended that sanctions be introduced against employers. At the moment, when somebody does not have the right to work and they are working, sanctions are levied against that individual whether they are a visa holder without work rights or whether they are here without a valid visa. The employee has sanctions levied against them. The employer essentially does not. That is the problem that was pointed out in 1999 and that is the problem that now, at the very end of 2006, parliament is finally bothering to deal with—and it is a serious problem.

As the 1999 inquiry commissioned by the government found, if people are working without the legal right to work, that denies Australians opportunities, it burdens the Australian taxpayer and it results in the exploitation of very vulnerable people. Almost invariably it is bad for the person who is working, it is bad for the decent businesses that have to compete with an employer who is behaving appallingly and it is bad for other Australians who could have that opportunity to work or who now have to compete with lower rates of pay. So there was a situation that had to be dealt with. There is an argument that, technically, there was a way of doing it by imposing aiding and abetting offences. But, realistically, the government acknowledged that aiding and abetting offences have not been pursued and there was a need to include something as specific as this in the Migration Act.

In 2002, the then Minister for Immigration and Multicultural and Indigenous Affairs,
now the Attorney-General, introduced a new system not to actually provide sanctions against employers but to introduce a system of warnings to employers. I have to say that I am not sure what being given a warning would do if no sanction followed. It is no surprise that that 2002 system did not really deliver a lot. Employers were issued with warnings, but they knew full well that, notwithstanding that they had been warned, if they were caught doing it again they would just be warned again. A system of warnings does not mean much unless it is backed up by a system of sanctions.

In fact, in the 2004-05 year the Department of Immigration and Multicultural and Indigenous Affairs issued 2,280 warning notices to employers and labour suppliers, which was an increase of 20 per cent on those issued in the previous financial year. So year after year more warnings were delivered, and the best example of how ineffective those warnings were was the fact that in the subsequent year more of them were issued. None of that is a criticism of this bill; it is a criticism of the delay in this bill being brought forward.

So now that we are debating this legislation, it is worth looking at a couple of the provisions in this bill. An argument has been made that the current benchmark of knowledge or recklessness is too high a bar and that an employer should have strict liabilities. An argument that has been put from time to time is that that is the way to make sure that an employer never employs somebody who does not have the legal right to work. I do not think we have managed yet to arrive at the precise words required, and Labor will monitor exactly how effective this proposed legislation is. We agree with what is in it. It is a step in the right direction, but we do not want to take so far a step in making sure that nobody ever employs someone illegally that it results in overtly discriminatory practices being observed at the workplace. We do not want to end up with that situation, and therefore we are not amending what is before us right now. We are concerned that this bill does provide, arguably, a lower bar than might be required in order to make sure that these sorts of practices are stamped out.

Another concern relates more to the phrasing in the legislation rather than to intent. The government has sought to make sure there is an aggravated offence, and so there should be, where employers are acting in a situation of sexual servitude, forced labour or slavery. It is appropriate that there be aggravated offences in those instances. This has been phrased in a way that has given us a
definition of exploitation, but we will not seek to amend it. We do not want to undermine the seriousness of those offences but I think that, logically, the concept of exploitation is much broader than just those mentioned. I do not want to create a parallel situation where we say that someone being underpaid is as bad as someone being in a situation of sexual servitude, forced labour or slavery; therefore, we are not going to seek to amend the definition of exploitation. But in terms of phrasing, exploitation and examples of exploitation which should be taken into account as some sort of level of aggravation do go much broader than what is contained in the legislation before us.

Many areas remain untouched by this legislation. Part of the problem, which was a focus of both the Palmer and Comrie reports, is that over a period of time government cuts to funding have resulted in a lack of investment in the IT available to the department of immigration, which has resulted in our hearing comments such as we just heard from the parliamentary secretary: ‘We believe there are 46,000 visa overstayers.’ In the Senate I think that comment was put as, ‘The government’s current estimate is that there are around 46,000 visa overstayers in Australia.’

I have to say that I am pretty concerned that the government does not know. I am pretty concerned that that sort of information is not available, with all the documentation given when people arrive at airports and visas are stamped and when visas are stamped again when people leave—it is a complicated system; I do not deny that. You have to be concerned when there have been many months and, arguably, years of preparation before we got to this moment in the parliament today and we have not been able to arrive at a figure that we can assert with any accuracy is the number of visa overstayers in this country. We do not actually know.

I know this is one of the issues that the department of immigration has as a priority to fix. I know the tenders have gone out; I seriously hope that it is fixed. It is in the interests of no-one, government or opposition, to continue to be in a situation on these fundamental questions where the correct, accurate response is, ‘We’re not really sure.’ But that is the best available information as I understand it, and I presume the parliamentary secretary and the minister in the other place would only come forward with what is the best available information, which in each case is by their own confession an estimate.

Of those 46,000 overstayers it is estimated that more than 26,000 have been in Australia for more than five years without the legal right to be in Australia. In terms of compliance and the promise that the government would decide who comes to this country and the circumstances in which they would come, I guess that is not under threat from that figure, but whether they leave when they are meant to leave is certainly under threat from that figure. The government appears to not know those answers. As I have said previously, I understand the department of immigration is working on trying to provide those answers in the future and that the tenders have gone out. But I really hope that it will not be long before the minister is able to provide more precise figures than those we are talking about today.

A large number of areas remain untouched. The parliamentary secretary in his speech referred to clause 245AC and said that this legislation would also pick up concerns where an employer has employed somebody by improperly using a 457 visa. Essentially we are talking about two sorts of breaches here, and for each there is the aggravated offence and the ordinary offence. We are talking about either a breach where somebody has no visa at all or no valid visa, or a breach where somebody has a valid visa
but that visa does not contain the right to work.

So clause 245AC, in the 457 visa example that the Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs gave, is about the latter. It is about a situation where somebody has the legal right to work but they are working in breach of a visa condition. The example that the parliamentary secretary gave is where somebody comes out for a particular skill set and ends up being in breach of the visa condition by working in a very different skill set or a lower skilled area which would not be considered lawfully to give them the right to be a primary visa holder under the 457 category. It is true that the legislation does pick up that. It is true that, where you are dealing with a clear breach of a visa condition, there will now be an extra penalty on the employer.

But there are many areas which ought to be cleaned up which this legislation does not go anywhere near. The classic one of those is a situation where the minimum rate under a 457 visa, while being technically complied with, has been effectively undermined because somebody had to spend thousands of dollars to purchase their job. These are the situations which have been debated in this parliament already. For example, we have had cases of people paying $20,000 or $21,000 for a $42,000 job. Those situations certainly, I would argue, amount to exploitation. Those sorts of situations, without any doubt, are a complete undermining of the minimum salary provisions which are contained within that visa category. But, even though they undermine it, they do not technically breach it because the payment has been made in another country, and the payment either has been made directly to the employer as a sort of interview fee or has been paid to a labour hire company or an employment agency as an agency fee. So either it has gone directly to the employer in a way that does not purport to be for the purchase of the job or it has gone through a circuitous route where the employer ultimately is the financial beneficiary but where there is not a direct link. In either case, it completely undermines how even the government claims publicly that that visa is meant to work.

We have debated here the situation of Mr Jack Zhang, who paid $10,000 to an agency and $10,000 to the employer. The first $10,000 was up front; the $10,000 to the employer came back out of the salary through deductions of the debt, and once the debt was fully repaid he was terminated. If we are serious at all about wanting to say that the minimum salary of just under $42,000 in that particular category of 457 visas should actually be meaningful then we should say that that situation is a breach of the condition, because there is no doubt that, if $42,000 is going through the employee’s bank account but they have actually lost $20,000 on the way through, that is not the way that this system is meant to work. It is clearly exploitation. It is clearly a breach of the spirit and the policy reason for having those sorts of minimum rates.

This legislation goes nowhere near it. This legislation does nothing to deal with that situation. After the bill before us has become law—and I will be glad when it becomes law; we will be in a better situation than we are right now—we will still have a situation where the scenario I talked about does not give rise to a true employer sanction because it does not satisfy clause 245AC of this bill. It will not meet that test. And yet, by any measure at all, it is outrageous. By any measure at all, it is just wrong—wrong, outrageous, but legal. When it happens at the moment, the most the government can do is to have this sanction: to say to an employer, ‘Well, we won’t let you do that to the next employee, but you got away with it this
time.’ That is the ultimate sanction at the moment.

I have to say that, as deterrents go, I don’t reckon that rates. Saying, ‘You got away with it, but we’re not going to let you do it again,’ does not really count to me as a deterrent. If someone were caught for murder and told, ‘Well, yes, you did the wrong thing, but—guess what?—your punishment is that you’re not allowed to repeat that offence,’ we would all say, ‘Outrageous.’ We would all say, ‘That’s not a penalty.’ In this situation—while I am not saying it is parallel to murder—we have no effective penalty for an employer who completely undermines every policy justification there is for a temporary work visa.

So I see the bill before us as a step in the right direction but not too much more than that. I worry that it took us nearly seven years to make this step. I worry even more that it was not until we had the interaction that we have seen between the new industrial relations laws and the temporary work visa system—it was not until it became legal to exploit people in a whole new way—that the government decided there would be a crackdown on these people, on these employers.

Until a couple of years ago, the situations that I have been referring to, the situations that we have debated in this parliament about 457 visas, were not the problems that they are today. It was not until we discovered that the government had allowed there to be a new way to exploit people, a new way for employers to do most of the things that this legislation was originally designed to get rid of, that this legislation was finally allowed passage through the parliament. It becomes deeply tempting to ask, ‘Why is it that they will only stamp this out when they have found a new way of allowing it?’ because that has been the time line. There has been a seven-year gap between their commissioning that original inquiry and getting to the point that we are at in the House of Representatives tonight.

I have been unable to find anything in the legislation before us which is a step backwards, but what I have seen in the last couple of years is a massive step backwards in the way that people on temporary work visas have been treated in this country. Has it happened in the majority of cases? I have said many times: no, not for a minute. But there are examples of exploitation which are unacceptable and legal. After this bill, that will not have changed. We will have got to the bottom of making sure that we can punish an employer for employing a welder and giving them a job as a cleaner but we will not have done anything about the problem of an employer who technically pays somebody $42,000 and that person ends up with only $20,000 of it.

The reasons that the government have brought to the table for why we are passing this legislation are exactly the reasons Labor have been calling for the reform of the way the 457 visa has been working. When we have called for that reform, the minister in the other place has said: ‘It’s outrageous. They’re just against people from other countries coming here.’ No, the arguments that we have run are the same arguments that the government have run with respect to this bill. It is just that we want to stop all of those examples of abuse. We do not want to stop it only when it is a situation where somebody has no right to work in Australia or where somebody is working in breach of a visa condition. Let us make it clear that this is the employment situation among all employment situations where, if it does not get fixed in this room, it does not get fixed.

The reason for that is simple: we are talking about the people least likely to report abuse. We are talking about the employees
who believe that, because they have no right to work, if they report abuse all it will mean is that they will get caught by Immigration. Sure, they have then fixed up the employer but it is not their job anymore and it is not their country anymore. So they are the people least likely to report abuse. Similarly, somebody on a temporary work visa who is being treated in a way that I would hope all members of this parliament would believe is unacceptable, notwithstanding that it is legal, and who believes that their employer has not only the right to terminate their employment because of the new IR laws but effectively the right to deport them in the same hit is highly unlikely to report.

This sort of legislation is to protect them. But it is not only to protect them; it is an important issue for the rest of the Australian workforce because they do not want to be in a situation where they are competing in a race to the bottom for a new, low market rate of wages. It is essential for decent employers—the majority of employers do not behave this way—because it is not right for them to be faced with competitors who do. So for all of these reasons, we have a real public policy problem that is unlikely to be reported, that is unlikely to be complained about but that is bad for employers, Australian employees and visa holders—and we have to find a way of dealing with it.

For the vast majority of problems of this nature that have been debated in this chamber, the bill before us will do nothing. Notwithstanding that, there are some people for whom the sanctions described here are really important, none more so than those who are in the worst situations of exploitation that I referred to earlier—and that is the bill’s dealing specifically with people in situations of sexual servitude, forced labour or slavery. It is unthinkable that, until this moment, they have been committing an offence but their boss or pimp or landlord probably has not. Yet that has been the state of the law. If they are in a situation of forced slavery, they are the ones whom the legal sanction has been against. I am pleased that, once this bill goes through this place, the person who has put them in that situation will be guilty of an offence under the Migration Act as well. That is a significant improvement. It is an important improvement. It is an improvement that Labor will support.

But the test of it for the limited class of people to whom this bill applies will be how the prosecutions then go. I do not want to see a case where this bill goes through here and we do not see prosecutions, and I also do not want to see a situation where we do see prosecutions but they fail because it was too difficult to establish that the employer had actually been reckless. As I say, I have deep fears about going to a strict liability path. I think there are huge public policy outcomes—unintended outcomes, but outcomes that then affect everybody who has any sort of an accent other than what would be regarded as a broad Australian accent, because an unnecessary and unreasonable burden has been placed on employers to insist on a whole series of papers and paperwork but only for those people.

It is for this reason that Labor for some time has been talking about trying to streamline the system with a work rights green card system in Australia. It is for this reason that Labor has been arguing for some time that, if you flag a connection to having to check to a green card with a tax file number system, which almost all employees do provide to an employer, you can avoid the racial discrimination overtones, because it will actually be evident on the face of the tax file number. These are the sorts of issues that Labor believes we should be talking about, considering and finding a way through.
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The end point that we want to reach is simple. When we have a genuine situation of skills shortage that we cannot fill locally, we get the best people available from around the world to come here and help fill those gaps. That is the end point we want to get to. We do not want to see it being used in a way that amounts to exploitation by any definition, not just the limited definition of exploitation within the legislation that is before us now.

That is a good public policy end point to get to, but to try to get the Minister for Immigration and Multicultural Affairs into that debate is impossible. Whenever we raise it we get straight to name-calling such as ‘You are against immigration’ and ‘You’re only raising these examples because they are Chinese workers’—in the case of Mr Zhang. We get ridiculous argument after spurious argument after name-calling.

We have a genuine public policy concern here. When people ask me how big the problem is I say that I do not know and the government does not know. The government does not even know—I am back to where I started in this debate—how many people are here as visa overstayers. It reckons it is 46,000, and it reckons 26,000 of them have now been in Australia unlawfully for more than five years. There may be various reasons why it has not found them and deported them—I imagine there are 46,000 reasons why it has not done that—but we have a situation where the status quo is unacceptable. This bill makes a dreadful situation a little better. I am pleased to move the second reading 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 is of the opinion that:

(1) the Government has failed for more than six years to introduce sanctions for employers who employ unlawful non-citizens and individuals with work restrictions, despite a 1999 Government commissioned inquiry recommending it do so;

(2) the bill fails to address the need for higher penalties for employers who are repeat offenders under the legislation; and

(3) the legislation’s bar on employer culpability may be too low, the reference to ‘the person knows that, or is reckless as to whether, the worker is an unlawful non-citizen’ is sufficiently reserved that it may prove difficult to successfully bring sanctions against an employer”.

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

Ms Corcoran—I second the amendment and reserve my right to speak.

Mr BAIRD (Cook) (7.24 pm)—It is my pleasure to support the Migration Amendment (Employer Sanctions) Bill 2006. I listened for some 30 minutes to the member for Watson. He took a long time to say that he was actually supporting it. He got somewhat distracted by his attack on the government over 457 visas and by the occasional mention of sexual slavery. With regard to 457 visas, if you talk to employers about labour shortages—as we have during the inquiry of the House of Representatives Standing Committee on Economics, Finance and Public Administration into Australian manufacturing exports and imports—you will find they are crying out for people to assist them short term in trying to find skilled labour. You will recognise that, despite the Labor Party’s ideological blinkers, people are saying this is the way to go when you have unemployment as low as it is because of the success of the government’s economic measures.

The member for Watson’s concern is really focusing on the micro level—that this will not do much for people on 457 visas who consider they are exploited—when the reality is that this is dealing with, as the department says, those 46,000 overstayers, some 25,000 of whom have been assessed as
having been here perhaps longer than five years. What do we have? A focus on a very minute area of policy that has been generally very successful. In industry—whether it is the service sector or the manufacturing sector—people are saying that we have a major skills shortage. If the member for Watson got out there and talked to industry, instead of talking to his ideological mates, they would tell him what the problems are.

Mr Burke interjecting—

Mr Baird—I am talking about all your right-wing Sussex Street mates. Take the tourism industry, for example. I do not know what exposure the member for Watson has had to the tourism industry—apart from the occasional junket—but recently in roundtables they have been saying that at any one time in the restaurant and catering sectors, for example, there is a seven per cent level of vacancies. If somebody walks in the front door, they lock the door so that they can make sure they do not get out before they have them signed up for a job. That is what industry is coping with, and bringing people in on a short-term basis is a way of trying to solve the problem.

Instead of recognising that we have a genuine aim to bring in legislation that is directed towards the illegal workers in the country—which I would have thought he would strongly support—the member for Watson spent half of his speech talking about 457 visas. This legislation is all about protecting the jobs of young Australian workers, senior Australians, people who are technically qualified and other people who have come here as genuine citizens, genuine refugees or genuine migrants, all of whom are seeking jobs in this country. This bill is protecting those people.

In this legislation the government is looking at a problem where unscrupulous employers are employing illegal workers. Having chaired the Parliamentary Joint Committee on the Australian Crime Commission’s inquiry into the trafficking of women for sexual servitude, I think this is a real, legislative means of addressing that serious situation. It is estimated that up to a thousand women are brought into Australia from various South-East Asian countries and locked up in apartments. We hear the arguments of various brothel keepers that they did not know—that these people were coming here to work in restaurants and just happened to be here at the time. It is a genuine and major human rights abuse in this country.

The member for Watson of all people should be enthusiastically endorsing the provisions of this legislation. I think it does make some significant changes, particularly the provisions relating to recklessly ignoring the legislative requirements, so that employers genuinely check that their employees have the right to work in the country and that they are legitimate residents within Australia. This is important and appropriate. I know we have reached the time when debate will be interrupted, but I look forward to continuing the debate later with the member for Watson.

Debate interrupted.

ADJOURNMENT

The Deputy Speaker (Mr Haase)—Order! It being 7.30 pm, I propose the question:

That the House do now adjourn.

Oil for Food Program

Mr Crean (Hotham) (7.30 pm)—As a previous Minister for Primary Industries and Energy, I was a strong defender of the single desk. That support was contingent on ensuring the AWB acted with integrity. Like other Labor ministers for primary industry, I was an activist minister who ensured oversight of the operations of the AWB. I saw it as part of my job. I might say that we also oversaw the
deregulation of the wheat market for domestic purposes, something that has seen a significant diversification of our crops.

Sadly, this government and its ministers have shown no such probity, and the damning conclusions of the Cole inquiry demonstrate how mired in scandal we have become as a consequence. This government’s lack of probity, its negligence and its maladministration have killed the single desk arrangements as we have known them.

The AWB scandal of course has many other ramifications. The wheat for weapons bribes that the AWB paid—$300 million in total—have not only cost the taxpayer; they have cost wheat growers their trade with Iraq, about $500 million per year, and the value of AWB shareholdings has halved. Yet the government claims it has been cleared. How can anyone clear that mammoth negligence and maladministration?

It is very interesting that the then minister for agriculture, Mr Truss, the person responsible for the Wheat Export Authority, allowed this incompetent body to not only be underresourced but be effectively a watchdog without any teeth. Some watchdog! It did not even bark while these scandals were happening. And it is not that they were not warned. Labor, through its then agriculture spokesman, Senator Kerry O’Brien, drew attention to the Wheat Export Authority’s deficiencies three years ago. In fact, the Wheat Export Authority had written to Mr Truss, the then minister, in 2000 advising him of its limited powers. Yet the government failed to act. But Minister Truss’s position is even worse, because in relation to commissions he had this to say back in March this year:

But even if the Australian Wheat Board was paying commissions for wheat sales in Iraq, that would not cause any great worry. ... if ever there were any kickbacks to the Iraqi grain, then I guess they would end up with the government. So that is not terribly unusual.

This is a government that was effectively condoning the activities and not supervising. It is outrageous, it is a dereliction of duty and the government is to be condemned. This did not happen on our watch, because we as ministers took our offices seriously.

Another National Party minister, now its leader, the Deputy Prime Minister, Mr Vaile, set up the flawed structure in 1998 which led to this scandal. They privatised the statutory authority but then gave no oversight to it. It was a flawed privatisation which lacked both good governance and scrutiny. Now what do we have, looking at the unedifying debate last night between the member for O’Connor and Senator Joyce? Well may members of the other side laugh. This is a disgrace, but I am sure there is more to come. This is a government that stands condemned for its negligence. It has cost the nation and it has cost the wheat growers. The government needs to come up with a solution to protect the interests of wheat growers going into the future.

The National Party has let them down and the Liberal Party has no capacity to deal with its partners in this complicit fraud on the nation.

**South Australia**

Mr RICHARDSON (Kingston) (7.35 pm)—I am very disappointed today to be rising to talk about this issue, but, given the importance of good representation to the people of my federal electorate of Kingston, I feel it imperative that I voice my concerns.

In the South Australian election held in March this year a colleague and friend of mine, Robert Brokenshire, was defeated as...
the member of parliament representing the state seat of Mawson and was replaced by the Labor candidate Leon Bignell. Despite my disappointment at losing a hardworking member in Robert, I had hoped that a new member would have high standards to serve his community as a ‘first timer’ and I set about forging a good working relationship with him for the benefit of my constituents. Unfortunately, not only is the new member for Mawson not interested in forming a working relationship with me so we can better serve the people of the southern suburbs but he is clearly not interested in representing the people of the southern suburbs and his electorate of Mawson at all.

In the short time he has been in parliament he has appeared in the Adelaide Advertiser boasting about spending his time in parliament drawing pictures of other members rather than listening and working on behalf of his constituents. But that is not the worst of it. In his maiden speech to parliament he joked and laughed about a suggestion made by his young son that they participate in hoon driving during the election campaign. Most recently he was quoted in Adelaide’s Sunday Mail talking about his former boss, South Australian Labor Minister Patrick Conlon, and not only repeating but joking about the fact that his mentor would joke that being a minister was the best job in the world because you got to travel the world going to the best sporting events. The constituents of Mawson tell me that Mr Bignell is known around his electorate as ‘the ghost who walks’ because of his refusal to talk to, deal with or represent his constituents. I wonder if his former boss’s words of wisdom may have been his motivation for entering politics.

Then there was Mr Bignell’s suggestion that oil company ExxonMobil paint in camouflage colours the disused storage tanks at an abandoned oil refinery it owns in my electorate. Leaving aside the hypocrisy of the fact that it was his Labor government that allowed the site to be abandoned in the first place and the fact that his government promised to force the clean-up of the site before breaking that promise, the thing I find most odd is that the refinery is not even in his electorate; it is in the nearby electorate of Bright, currently held by his fiancée, Chloe Fox. I am sure the residents of Mawson were particularly pleased that, while they cannot seem to get any representation from the ‘ghost who walks’, he was willing to represent his fiancée’s constituents. I would have thought he would have been lobbying his own Premier, who promised before the election to extend the railway line further south or provide better transport in his electorate between Willunga and Aldinga.

The discussion of Mr Bignell’s fiancée brings me to another incident I am exceptionally disappointed about. I recently organised a broadband information night for residents in a suburb in my federal electorate of Kingston who have long suffered from being in a broadband black spot. I have been working with Telstra since my election and, believing they may have an alternative for the people of Hallett Cove, I asked Telstra to hold a public meeting with me to discuss the issues with local residents. Over 100 local homeowners attended the evening and the feedback was very positive.

Ms Fox, the member for Bright, clearly annoyed that she had not achieved any results in relation to this issue—if she had even bothered to work on it or asked Telstra herself to hold a similar information session, as Bob Such had done in Aberfoyle Park—decided to stand up in state parliament and deliver a speech under the protection of parliamentary privilege. The speech, amongst other things, accused Telstra of a ‘gross dereliction of duty’ and of corruption. Parliamentary privilege is something introduced with the best of intentions and is integral to the
proper workings of the parliament, but to have a member slander and defame an organisation such as Telstra and hide behind parliamentary privilege is nothing short of spineless and pathetic.

If that were not enough, the state Labor member for Bright, Ms Fox, then sent her staff members along to my public information night to hand out flyers covered in blatant lies about the services offered by Telstra. I do not know if Ms Fox does her own homework or relies on union official staffers to write her media releases, but her naivety and lack of knowledge and the false facts provided to local residents is certainly not what I would have expected from a member of parliament. Obviously, though, the true Labor union colours are starting to show.

I have been in politics a short time longer than Ms Fox, but I offer her a word of advice: there is no place in this profession for temper tantrums and hissy fits. Politicians—whether Liberal, Labor or Independent—should represent their constituents to the best of their ability. The residents of Ms Fox’s electorate of Bright deserve much better than a member acting in a young, inexperienced manner just because she did not get invited to the party, as she described it.

**Oil for Food Program**

Mr GAVAN O’CONNOR (Corio) (7.40 pm)—I hold here a copy of the Cole commission Report into certain Australian companies in relation to the UN oil-for-food programme, which documents one of the greatest scandals in Australian corporate history. That scandal came about, as the commissioner has documented, as a result of a culture that grew up in the Australian Wheat Board. Subsequent actions which have damaged wheat growers around this nation damaged the good reputation of this industry and damaged the trading reputation of Australia.

As I read through this report—the whole five volumes of it—it comes home to me just how far the standards have slipped in this parliament. AWB, in its privatised form, was a creation of legislation enacted by the Howard government. In that particular structure is an organisation called the Wheat Export Authority. It is the Wheat Export Authority that is the subject of one of the particular recommendations in the Cole commission report.

This is a scandal of immense proportions. The damage it has done to the wheat industry is extraordinary and substantial. And, of course, it occurred on the watch of the Howard government and its negligent and incompetent ministers. We ought not to feel sad about what has happened to the wheat industry; we ought to feel angry, because the wheat growers of Australia must now face the second drought in some three years. This has been described not as a one in 100 event but as a one in 1,000 event. The wheat industry has to stomach the sight of a coalition government celebrating the fact that, despite rorted terms of reference and the exoneration that supposedly came in this report, they have had to sit and watch, on their televisions of a night, minister after minister denying any culpability and responsibility for this negligence.

The crowning hypocrisy of the government’s position is that we went to Iraq, as the Prime Minister so often tells us, to defend democracy and encourage democratic government. He says that we will be there when all the rest are gone, apparently, because both the Americans and the British are seeking ways to get out of that terrible waste of a conflict. But at the heart of any democracy is the notion of ministerial responsibility. That has been the cornerstone of the Westminster system. As you read in this report of the incompetence of at least one department, the Department of Foreign Affairs and Trade, we have the government denying any ministerial
Dr Russell Norman Bushby

Mr MICHAEL FERGUSON (Bass) (7.45 pm)—Tonight I bring to the attention of the House a quiet achiever from my electorate, who recently passed away after a very challenging yet rewarding life. I wish to pay tribute to Russell Norman Bushby, who was born in Launceston in 1922. He studied at East Launceston Primary School and Scotch College in Launceston before joining the education department and initially being posted to Lady Barron primary school on Flinders Island. He was later transferred to East Launceston Primary School, his old school, where, as a junior teacher, he taught a class of 65 grade 3 children.

In December 1941 he was drafted into the Army Signal Corps. He continued to teach and also went to teachers college in Hobart. Later that year he joined the Air Force. He was posted to Darwin and later to Bathurst Island. Towards the end of the war, Russell was offered the chance to retrain. He decided to study medicine as he had a vision to travel overseas to do missionary work and believed medical training would be beneficial to that work.

While completing his medical degree in Melbourne, Russell met and married Betty. They later returned to Launceston, where he worked at the Launceston General Hospital. In 1956, Russell, Betty and their two young children headed to India and spent the next five years working in the Landour community hospital in Mussoorie, north of Delhi. Russell’s work had a marked impact on this community, through both his practical medical aid and through his gospel teachings. He trekked to many interesting and varied locations, and assisted Tibetan refugees who, at that time, were fleeing the Chinese invasion.

In 1960, Russell contracted hepatitis and so the family returned to Australia. Upon his recovery, he commenced private practice in Launceston. Many members of the Launceston community remember him as a classic, old-style family GP. He had an amazing ability to connect and reach people with compassion and with respect.

In 1989 Russell was asked to go to Fiji and help at the Ba Methodist Hospital. He and Betty spent several months there, again making a major difference to that local community, doing many tasks in which, although he was not necessarily specialised, he performed extremely well. On returning to Australia, Russell sold his practice and moved into the next phase of his life as a lay preacher in the Uniting Church. He was responsible for the parishes of West Tamar, George Town, Sheffield and Deloraine—a considerable number of parishes with a con-
sizable number of parishioners. During that time he developed many lasting friendships through this ministry. Russell was proud to state in the latter years of his life that in his ministry he had delivered more than 2,000 sermons as a lay preacher in approximately 100 different assemblies around the north of the state.

During his life, Russell experienced a range of illnesses owing, of course, to his extensive travel and the nature of the work that he had undertaken. These included whooping cough, dengue fever when he was in Darwin and hepatitis in India. He ended up having a quadruple bypass operation in 1981. At the time of his death, he was one of the longest surviving people, at 25 years, of heart bypass surgery—a true testament to his strength and character and also to the skills of the surgeons in the developmental stages of heart bypass surgeries.

Russell died the day after his 84th birthday, on 9 October this year. It has been said of him by many that throughout his life he dedicated himself wholly to the service of others so that they might enjoy a better and more fulfilling life. He touched many thousands of people through his ministry and also through his medical practice. Dr Russell Bushby is survived by his children—his daughter, Beth Sypkes, and his sons, Philip and Mark Bushby. Tonight, in raising the life and times of Dr Russell Bushby, I would like to extend my sympathies to each one of his children and to their families. They can be extremely proud of the contribution that Russell made to the Tasmanian community, as well as to the overseas communities in which he served. I am extremely pleased tonight to have been able to record the achievement of this quiet and compassionate Tasmanian. I thank the House.

Oil for Food Program

Mr RIPOLL (Oxley) (7.49 pm)—Yesterday the member for O’Connor, Wilson ‘Ironbar’ Tuckey, delivered a blast of truth on his way into this place. Fronting journalists at the entrance to the House of Representatives, the member for O’Connor outed a senior minister as a supporter of corruption. The member for O’Connor himself is a former minister in this government. He represents one of those great wheat-growing regions in this country. He knows how much damage the wheat for weapons scandal has done to Australia’s international reputation and the economic interests of our wheat growers. And he has a tendency—we all agree with this—to come into this place and tell it like it is. He does not care who is going to get him later.

Yesterday, the member for O’Connor was asked by reporters whether he thought National Party MPs knew about the kickbacks paid by the AWB to the regime of Saddam Hussein. Rather than deliver one of those slippery responses that members of this government have turned into a real art form, the member for O’Connor told the truth. This is what he had to say, and I am going to quote it just as he said it. He said:

The dogs have been barking about corruption for years. A number of people, who were not Liberals, were constantly out in the marketplace saying it was the way you did business in the Middle East.

We have all heard it, and we have heard it time and time again: it is the way you did business in the Middle East.

Like the member himself, there was nothing complicated about his response. His statement of fact was not news to anyone on this side of the House. In fact, I do not think it was news to anyone in this country. It was not news to Australians who know that National Party ministers held the trade and agri-
culture portfolios while the AWB paid bribes to Saddam Hussein.

While ruminating on the member for O’Connor’s statement, I reflected on a defence of the AWB’s conduct that was mounted at a Queensland National Party conference in March this year. The defence was not mounted by a Young Nat or an ageing acolyte of Joh; it was mounted by a senior minister in the Howard government. The defence directly related to the conduct of the Cole inquiry and was made in these terms:

... deals are not done by gentlemen just sitting across the table, and some of the language that is being used in this inquiry reflects a total lack of understanding about the way in which business occurs around the world.

These shameful comments were made by the Deputy Leader of the National Party—a party whose numbers are diminishing at a rate bettered only by its diminishing integrity.

It is relevant to note that the Deputy Leader of the National Party served as minister for agriculture, with responsibility directly for the failings of the Wheat Export Authority for much of the period subject to scrutiny by Commissioner Cole. Soon after excusing the AWB’s payments of bribes, the Deputy Leader of the National Party was promoted to Minister for Trade—a sick joke played on not just the wheat exporters but all Australian exporters. The Minister for Trade has had this to say about AWB’s corruption:

... if you are paying commissions to an agent to sell wheat in another part of the world, there is hardly anything odd about that. When we sell our house, we pay commissions to a real estate agent. We may think he charges us far too much, but we don’t say that is corruption or a bribery payment, it is a fee for a service.

No denial about it actually taking place, just an explanation: ‘It’s not a bribe; it’s just a fee for service.’ Unfortunately for the minister, Cole found differently. The minister went on:

This idea that has become prevalent in some of the newspapers to cross out the word commission and write bribery or kickback is a reflection of the imbalance in the reporting there has been on this particular issue.

But even if, and I am not conceding it happened, somebody was told many, many years ago that the Australian Wheat Board was paying commissions for wheat sales in Iraq, that would not cause any great worry.

So if ever there were any kickbacks to the Iraqi grain [board], then I guess they would end up with the government. So that is not terribly unusual.

In January this year the Deputy Leader of the National Party pre-empted the findings of the Cole inquiry—by dismissing them. He said this:

I think that whilst we’ve all now got the benefit of hindsight and we can look back on who maybe should’ve known what, the reality is that even with the benefit of hindsight the things that were happening at the time were reasonable.

They ‘were reasonable’—that is what he said. The member for O’Connor is right to condemn those in the National Party who knew what was going on at AWB but did nothing about it. He is right to condemn those who make excuses about breaches of Australian and international law as ‘reasonable’.

The Deputy Leader of the National Party would not hold office in any government that had a skerrick of integrity or decency. He is a disgrace; so is this government. He knew about the kickbacks; they all knew about the kickbacks, because they have admitted to it. Even the Treasurer came in here and defended the $90 million—(Time expired)

Water

Mr FAWCETT (Wakefield) (7.54 pm)—I rise tonight to talk about the issue of water and the concern that is rightly in the community around water. Adelaide is about to move to stage 3 water restrictions in January. After
a very promising start and a good early break this year, many of the growers in Wakefield—the area that I am privileged to represent—have seen the devastating effects of a lack of rain and a failure of the season. Whilst many will get their grain back, there are some that are facing crop failures. With the ongoing discussion on water, the River Murray et cetera, there is an increased awareness now as perhaps never before in the community. One of the things I have noticed, though, is that people are often still looking for a silver bullet—some single solution or policy which will fix the problem, preferably overnight. The reality is, as this House would understand, there is no silver bullet but, through taking positive steps, the issue can be addressed.

Constitutionally the federal government does not have responsibility for water, so that gives two options: you can either throw stones and blame those who do or you can take the initiative to lead and provide incentives and a way forward. That is the direction that the Howard government has chosen to take through the National Water Initiative. This is something that was signed as a blueprint for national water reform. Most governments signed it on 25 June 2004 at the Council of Australian Governments, although Tasmania and Western Australia only came on later and some as late as April of this year. The thing I would like to highlight is that this is an initiative which is having outcomes on the ground.

To give you a couple of examples, Waterproofing Northern Adelaide is a $90 million project with some $38 million from the Australian government, a contribution of $21 million from local government, $16 million from state government and also $14 million from private funding. This is going to look at integrating stormwater, groundwater, wastewater and drinking water systems in northern Adelaide and the Northern Adelaide Plains region, and it includes the local government areas of Tea Tree Gully, the City of Salisbury and the City of Playford. It is going to look at capturing and cleansing stormwater in urban wetlands, aquifer storage and recovery and distribution of water for the irrigation of public spaces and industrial use, as well as innovative things like trialling a system to utilise domestic rainwater tanks to harvest water and later release it for public reuse.

Significantly, whilst this is not doing anything to put more water into the Murray, it is reducing the amount of water we are taking out of the Murray. It is doing that because we are harvesting and using stormwater that would normally be pumped out as quickly as our infrastructure could do it as ocean outfall into the Barker inlet. Waterproofing Northern Adelaide is predicted to reduce this outflow by some 20 gigalitres per year. We have already seen companies such as Michell’s, the wool processors, taking the opportunity through these schemes to replace water that they would have drawn from the Murray with stormwater. This is a very real initiative that is having outcomes on the ground.

I was pleased this week to announce over $600,000 of community water grants funding to 14 community groups within the electorate of Wakefield. Nationally the Community Water Grants program is expected to save over 9,500 megalitres each year. It comes down to local groups who have put their hands up and said, ‘We’d like to participate and make a difference to water in our community.’ Craigmore High School, for instance, have received a grant of $49,000. Through upgrading their irrigation system and using a range of innovative technologies, this project will save nearly 1.5 million litres of water a year from a school based group in the electorate of Wakefield.

Elizabeth Park Primary School, with a similar concept, is going to save over a mil-
lion litres of water. In Greenock, a country town in Wakefield looking at different kinds of irrigation systems, they will also save 1.5 million litres of water. At Kapunda High School, for a grant of only $19,000, they will be installing rainwater tanks and other water harvesting schemes that will enable them to irrigate some of their school projects, as well as do things like cooling the roofs of the animal sheds in summer. This will save some 153,000 litres of water.

Lastly, I will talk about the Virginia pipeline extension, which is funded under the National Water Initiative with some $2 million from the Australian government. We are still waiting for matching funding from the state government, which will see an alternative source of water for horticultural growers in that area—

The DEPUTY SPEAKER (Hon. IR Causley)—Order! It being 8.00 pm, the debate is interrupted.

House adjourned at 8.00 pm

NOTICES
The following notices were given:

Mr Vaile to present a bill for an act to amend the Airports Act 1996, and for related purposes. (Airports Amendment Bill 2006)

Mr Andrews to present a bill for an act to amend legislation relating to safety, rehabilitation and compensation, and for related purposes. (Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2006)

Mr Nairn to present a bill for an act to amend the law relating to elections and referendums, and for related purposes. (Electoral and Referendum Legislation Amendment Bill 2006)

Mr Turnbull to present a bill for an act to amend the Royal Commissions Act 1902, and for related purposes. (Royal Commissions Amendment (Records) Bill 2006)

Mr Lloyd to move:

That, in accordance with section 5 of the Parliament Act 1974, the House approves the following proposal for works in the Parliamentary Zone which was presented to the House on 28 November 2006, namely: Directional and interpretive signage.

Mr Georganas to present a bill for an act to establish an Airport Development and Aviation Noise Ombudsman, and for related purposes (Airport Development and Aviation Noise Ombudsman Bill 2007). (Notice given 29 November 2006.)
Ms OWENS (Parramatta) (9.30 am)—Today I would like to draw to the attention of the House a remarkable program launched recently in my electorate, an initiative administered jointly by the Smith Family and UnitingCare Burnside and to be generously funded over the next three years by Shell. The program is called ‘Let’s read—helping your child with early learning’ and involves the distribution of free materials to parents, including instructional DVDs and recommended reading lists, to assist parents in helping their kids with literacy before they start school. The program is the second in a series of three programs. ‘Helping your child with primary school’ was launched early this year and a third one, ‘Helping your child with high school’ is still to come.

I was pleased to be invited to launch the program because there is no better way to ensure that all doors are open for a child than to make sure that they get the parental support they need to get those early literacy skills early in life, and there is no faster or more efficient way to leave a child behind than to let them reach school age without basic reading skills—and children are being left behind. While children in middle-class families, for example, may get up to 1,500 hours of one-on-one reading before they reach school, children from disadvantaged families may receive as few as 25 hours of one-on-one reading with their parent before they reach school.

In my community too we have special difficulties with parents and grandparents whose command of English is not so good and refugee parents who are learning English at the same time as their children but whose children will grow through those early years faster than their parents can gain the skills they need to read with them in their new language.

When a child is not given the basics at an early age, that child will pay for that—and so will all of us—for the rest of their lives in wasted potential, higher risk of poverty, greater dependence on government and a loss of quality of life that comes with opportunity and access to the world that education and a love of knowledge gives us. Children’s lives do not wait for adults to get it right, and today we see the most community minded and caring people in our community working to give parents the best chance of getting it right for their children at the most crucial time in those very early years.

UnitingCare Burnside and the Smith Family have launched a wonderful program, giving parents the tools to help them teach their children and giving them the knowledge of how to do it. Parents will be able to give their children the best possible start in life. The parents of more than 1,400 preschool children are expected to benefit from this program in my electorate alone. I commend UnitingCare Burnside and the Smith Family for launching this vital program for the children in my electorate and I also commend Shell Australia for generously funding the program over the next three years.
Electorate Meetings

Mr SLIPPER (Fisher) (9.33 am)—Over recent years I have held regular ‘town hall’ meetings—I suppose that is what you would call them—to advise my electorate on my activities and also to seek a two-way exchange of views and to have a general discussion. We hold them as regular morning, afternoon and evening federal forums around the electorate. In these days of modern communication where one is able to use email, television or radio amongst various other means of communication, it is still important to eyeball people face to face and to sit down and talk with them and have that very important exchange of views.

The meetings have provided residents with an opportunity to raise issues for discussion or concern and enabled me to report on my activities. Over the years it is interesting to note how the attendance at the meetings tends to wax and wane. Prior to the introduction of the goods and services tax in 2000 we had very large meetings. When elections are close the meetings are large. When there is not a high level of concern about issues or when the electorate is relaxed and comfortable, meeting attendance is not quite as high as it otherwise is. But we also get many people who ring us following this opportunity. We have the general public discussion and then, if any constituent comes along and has a problem of a more personal nature and would like to discuss that problem with me or a member of my staff, we facilitate that.

My electorate is not as big as some others—it is under a thousand square kilometres—but we did have nine public meetings over the last week. They were held at the Kawana Surf Club at Buddina, the Pelican Waters Bowls Club at Golden Beach, the Caloundra Indoor Bowling Club, the Maleny Community Centre, the Kawana Waters Christian Church, the Mooloolaba Uniting Church, the CWA Hall at Buderim, the sales office at Sippy Downs and at my office at the Dolphin Centre, 118 Aerodrome Road, Maroochydore. We are going to have meetings in the new parts of the electorate which, compliments of the Electoral Commission, have been returned to Fisher. We are going to have meetings at Wamuran, Woodford and Kilcoy in the near future. So these meetings are held both in the existing electorate and in the new electorate.

I want to congratulate all of those residents who came along. I very much enjoyed talking with them. I took on board the points that they made. Residents of course at times praised government policy and on other occasions wanted some changes in it, but I think this two-way discussion between elected representatives and the community is always very important. I make this commitment to continue these forums in the future. (Time expired)

Victorian State Election

Gorton Youth Forum

Mr BRENDAN O’CONNOR (Gorton) (9.36 am)—I rise to acknowledge the third successive victory of the Bracks government and, in doing so, pay my tribute to four local state members who share constituents with me inside the electorate of Gorton, being Rob Hulls, Telmo Languiller, Andre Haermeyer and George Seitz. These four members have been re-elected, as I guess was expected, but what might not have been expected was the vote that was returned to Labor in the west of Melbourne. There has been a view that the Labor vote would decline in the west; there has been an effort by non-Labor spokespeople and parties to suggest that there would be a decline. However, the vote has held up extraordinarily well. In the case of the member for Keilor, his vote increased.

MAIN COMMITTEE
What was interesting to note was that in the seat of Kororoit the Liberal vote was only two per cent higher than Family First’s. I guess that means that the Liberals have a lot to do in relation to claiming any ground in the west of Melbourne, but it does say that people did vote for Family First in significant numbers. They matched the Greens in the west of Melbourne, which I think is also important to note; in fact, in most booths they outstripped the Greens, which is significant. It was interesting that they actually almost beat the Liberal vote—they were only two per cent shy of that. That is something we will have to keep an eye on.

I would also like to indicate to you, Mr Deputy Speaker, that I recently sent out a survey to 4,000 young people, between the ages of 18 and 24, in my electorate seeking some of their views on all sorts of matters. I was happy to see a return of those surveys from more than 500 young people, 100 of whom are willing to catch up and meet with me to discuss local concerns in areas including education, transport issues and health matters. I will be conducting the first meeting of the Gorton Youth Forum on 13 December and I look forward to meeting these young people. Many of the responses were comprehensive, in that they not only ticked the boxes and indicated their concerns but wrote at length about some of their major concerns. I look forward to meeting them. I am happy to say I have already met Matthew Lang, Felicity Cronin and Donna Fenech, three young local people who were able to attend the opening of my office when the Leader of the Opposition, Kim Beazley, was present. That was a good start to what I am sure will be a fantastic, successful and important youth forum. (Time expired)

Citizenship

Mr JOHNSON (Ryan) (9.39 am)—Citizenship in this country is something very special. As an Australian who was naturalised here and who now represents the federal seat of Ryan in the western suburbs of Brisbane—one of the most beautiful parts of Brisbane, and indeed Queensland and this country—I have the great pleasure of representing the people of Ryan, which is a very multicultural district and a very strong and vibrant community.

In the parliament today I speak on citizenship because on Saturday, 11 November, Remembrance Day, at three o’clock I had the great privilege of presiding over a citizenship ceremony where we welcomed into the Australian family some 60 new Australians, who took the oath or the pledge of allegiance to our country to become citizens. I want to take the opportunity to thank all those involved, who made the ceremony very successful and very enjoyable. Initially I want to thank my MC, Ms Camilla Cowley, who is a great advocate for refugees. I also want to thank the schools that were involved—young Australians who witnessed people from many different countries becoming citizens of our country.

I want to thank Helen Twaddle and Gabriel Mukuan, school captains of Indooroopilly State High School. The ceremony was conducted at the Peter Doherty lecture theatre at Indooroopilly State High School. I thank Ms Lois Collins, the Principal of Indooroopilly State High School, for making us so welcome there. Also in particular I want to thank the young students of the Toowong State School band, who beautifully performed Freedom's March, a very moving piece of music that really did inspire many of the Australians who were there to support their friends and their neighbours who became citizens.

As I said, 60 new Australians were welcomed to the status of citizenship in our country. They came from all countries—China, Taiwan, Hong Kong, Sri Lanka, the UK and even France. So many countries were represented by these Australians, who are now citizens of this
great country. I thank also in particular the Rotary Club of Toowong for very generously lend-
ing their good name, their membership and their support in putting on the afternoon tea. Without them we could not have had a very successful afternoon. As the federal member, it was delightful to see the Peter Doherty lecture theatre at Indooroopilly State High School full of Australians supporting new Australians.

This country is a very vibrant community; it is a very strong community. We are home to one of the most multilingual workforces in our part of the world, where citizens from over 200 countries, about three million of Australia’s population of 20 million, speak a language other than English at home. But of course we encourage all new Australians to make English their premier language. *(Time expired)*

**Cranbourne Information and Support Service**

**Mr Byrne (Holt)** (9.42 am)—I rise today to talk about tremendous organisations that provide much-needed assistance to the residents in my electorate. The first organisation is the Cranbourne Information and Support Service. This fantastic service covers the area from Hampton Park to Cranbourne. It has a catchment area of roughly 100,000 people. It provides emergency relief funding and also financial counselling to people in need, although the financial counselling for people in need of that service is massively underfunded. There is a financial counsellor at the Cranbourne Information and Support Service working four days a week to service 100,000 people, and there are waiting periods of about four to six weeks for an appointment.

People seeking emergency relief and financial counselling, interestingly, are not just coming from what normally is categorised as the underprivileged but are people who have mort-
gages. People who are seeking emergency relief are basically coming in due to multiple debts due to mortgages, credit cards, utilities and phone credit cards. They are noticing and experi-
encing now a massive spike of people coming in between November and January, as people seek help for the cost of education. They have created a new program through fundraising for those particular families, called ‘back to school expenses’. They are finding that education is one of the biggest imposts on a family outside of the mortgage and the rent. People are strug-
gling to pay for books, school shoes, fees, formal and informal fees, elective subjects, swim-
ming lessons, camps and calculators.

Seventy per cent of people who are coming into the Cranbourne Information and Support Service have never sought help before and they are struggling with the costs. We are seeing more and more people coming in for emergency relief who have mortgages.

**Mr Slipper**—Throw them out.

**Mr Byrne**—Say that on record. They are paying the mortgage and then forgoing essen-
tial services such as gas and electricity. These good, working families who have come to Cranbourne and taken out a mortgage are struggling with the cost of living. In my electorate we distributed a survey that had a massive response, particularly from the people of Cran-
bourne—and these are good, average Australians that are struggling with the cost of living and receiving no help from the government. You would think that in an area that covers 225,000 people the government would provide several financial counsellors—my seat has the highest rate of mortgages in Australia but the Commonwealth has funded only one financial counsellor. That says it all. People talk about the government being best for working families,
but they provide only one financial counsellor for 225,000 people. It is a disgrace. *(Time expired)*

**Water**

*Mrs HULL* (Riverina) (9.45 am)—I rise to say how pleased I was to announce almost $700,000 worth of water-saving initiatives in my electorate last week. This brings to 54 the total number of projects, and almost $2 million has come into the electorate in rounds 1 and 2. I commend the communities in the Riverina who are helping to ensure a sustainable and waterwise future. The projects will promote waterwise use and increase community awareness about water efficiency, conservation, water recycling and water health. It is expected that nationally community water project grants will save many thousands of megalitres of water per year and that community groups will donate 560,000 volunteer hours to implement their projects.

I was fortunate in this round to have grants made to Coolamon Sport and Recreation Club; TAFE New South Wales; Riverina Institute; Marrar Australian Football Club; Narrandera High School; Griffith Public School; Griffith City Council; Gundagai Pastoral and Agriculture Society; Yanco Agricultural High School; Colleambally Aged Persons Accommodation Association; Leeton Whitton United Australian Football Club; the Diocese of Wagga Wagga as Trustee for St Joseph’s Narrandera; St Mary’s Primary School Hay; Hay Public School; Leeton Golf Club Ltd; Murrumbidgee Shire Council; Narrandera Landcare Inc.; and Ariah Park Mirrool Football Club, which did such a terrific job.

I went out to Ariah Park Mirrool Football Club to see how wisely they had spent the last grant money they received. They have built a fabulous dam and they have collected all the run-off from great stockpiles of wheat and grain. Unfortunately, there are no great stockpiles of wheat and grain there now, but there certainly will be again in the future. This grant was used to collect all the rainwater—when we get it, and we will get it—off the massive sheds and milling areas. That is being used for the entire process in Marrar. Marrar has been a fabulous asset for us. They have been able to recycle water for their entire community, and I am very proud of their performance. I am proud of all of my electorate for getting involved in our community waterwise grants and providing to communities not only water-saving efficiencies but education on the fact that, as a community, we need to use our water in the wisest way. The government is assisting through this grants project.

**Television Sports Broadcasting**

*Ms GEORGE* (Throsby) (9.49 am)—While Australian viewers are enjoying watching the Ashes test cricket series on free-to-air television, and particularly the great result at the Gabba, English fans will not be so fortunate. Audiences in the UK are having to pay to watch their team and will only be able to see a delayed highlights package the following night on free-to-air on the BBC. In Australia we can thank a former Labor government for this situation, as back in 1992 they introduced anti-siphoning laws designed specifically to prevent certain sporting events from being siphoned off to pay TV. The current anti-siphoning list encompasses 10 sports, including the popular ones—football, cricket, tennis, golf—plus the Olympic and Commonwealth Games. It is a list of major sporting events that the Australian parliament has determined must be available for all Australians to see free of charge.
The Howard government is proposing to introduce a use-it-or-lose-it rule for sports on this list to, as they say, ensure that broadcasters are showing the events they acquire and that listed sports are not being hoarded—and neither should they be. On the surface this seems a reasonable enough proposition, provided of course the criteria operate fairly and consideration is given to the impact on viewers if an event is taken off the list. As I understand it, there will be quite an amount of ministerial discretion about what stays and what comes off.

A use-it-or-lose-it scheme should not result in less free sport being available to viewers, so any scheme would need to consider the impact of delisting events on the viewing population. It should also look at the rights broadcasters acquire and whether unused events are available to or purchased by pay TV. The use-it-or-lose-it mechanism should not result in free coverage of sporting events being replaced by pay coverage, for this would have a very serious impact particularly on low-income households, many of whom I represent in the electorate of Throsby. Considering that the cheapest package on pay TV is around the $600 a year mark and the average, I am told, is about $1,000 a year, this would make the cost very prohibitive and deny many people access to freely available free-to-air sports coverage.

Australian sports fans—and we are a great sporting nation—take it for granted that they will always be able to see their favourite sporting events on free-to-air TV. They ought to be alerted to the possibility of this new use-it-or-lose-it rule taking some of those well-covered sports off free-to-air TV and siphoning them off to pay TV. It is up to the Howard government to make sure that this does not happen. (Time expired)

Victorian State Election

Mr HUNT (Flinders—Parliamentary Secretary to the Minister for the Environment and Heritage) (9.52 am)—In the wake of the Victorian state election, I want to reaffirm my support for the principles of protecting the Mornington Peninsula. The election result was very clear. Some of the biggest swings in the state of Victoria occurred in the Mornington Peninsula in the seats of Nepean and Mornington, both of which, it appears, will see a swing of up to about 10 per cent towards the Liberal Party. Firstly, that is a testament to the sitting member for Nepean, Martin Dixon, and to the incoming member for Mornington, David Morris. Secondly, it is a recognition that there is an issue of profound importance which covers both of those seats, and that is the notion of protecting the peninsula.

In particular, that vote harnessed the concern that both of these members raised. Mornington Peninsula residents are seeking guarantees that the peninsula will be protected and preserved, not just for the next decade and for the next generation but for the coming century. In order to do that, they seek two guarantees: firstly, that the principle of 70 per cent rural with a capped 30 per cent urban boundary will remain in place; and, secondly, that this will be done by way of a particular planning policy designated for the peninsula. There should be a specific peninsula planning policy. Nowhere in Victoria has there been such an emphatic vote, far in excess of state-wide swings, on a regional basis. The notion of recycling and cleaning up the water from Gunnamatta outfall was another defining issue. Those two issues—a separate planning policy for the Mornington Peninsula, coupled with an urgent and immediate need to end the dumping of ocean outfall at Gunnamatta—combined to represent the issues which Mornington Peninsula residents voted on.

On the other side of the peninsula we have seen a change in the character of the seat of Hastings, going from a Labor-held seat to a Liberal-held seat. I recognise the work of the out-
going member, Ms Rosy Buchanan, and I am delighted at the endorsement of the incoming member, Mr Neale Burgess. In that seat, though, there is also great concern about an inappropriate proposal for a bitumen plant at Crib Point. I reaffirm my opposition to the use of Crib Point as the base for a bitumen plant. There is an alternative site north of Hastings, which is already an industrial area. But south of Hastings—I agree with the mayor—the Crib Point area should not become a site for new industrial development. (Time expired)

**Brisbane Airport**

Mr RUDD (Griffith) (9.55 am)—The Brisbane Airport Corporation has plans to develop a new parallel runway at Brisbane Airport. This was first put forward to the people of Brisbane’s south side and north side back in 1997 when the Brisbane Airport master plan was released.

Since they first put forward this proposal for a new parallel runway, on four separate occasions I have been in court either with the federal government or with the Brisbane Airport Corporation, through the Administrative Appeals Tribunal and then the Federal Court, in an attempt to stop this runway proceeding. In fact, the substantive matter that I put to the Brisbane Airport Corporation is that they should not proceed with the construction of that runway until they had conducted a proper cost-benefit analysis of all alternative runway options. That has never been done.

However, as for the last leg of that court process before the Federal Court, the record shows that the federal government and the Brisbane Airport Corporation defeated me. As a result, costs of $32,000 were awarded against me, which I was required to meet personally. Again, I place on record my thanks to Brisbane’s southside community for raising most of those funds on my behalf.

When it comes to what has happened since then, the Brisbane Airport Corporation, having obtained approval by the federal government through the transport minister of the Brisbane Airport master plan, have gone to the final stage of the development approval process—and that is through its major development plan and simultaneously through its environmental impact assessment. These two documents have been released to the community for final comment in recent weeks. I am in the process of contacting all members and residents of Brisbane’s southside community to encourage them to have a direct input into the final determination of this by the federal government.

I have stated repeatedly on the public record that I do not believe that I can now stop this thing from proceeding, because I have been defeated in the courts on this question. Once the federal Minister for Transport and Regional Services approves this major development plan and the EIS, the last regulatory approval will be in place for the Brisbane Airport Corporation to proceed with construction of this new runway.

The key challenge therefore for me, as the representative of the people in Brisbane’s southside community, is developing an effective noise management plan for this new proposed runway. It will have a significant effect on the residents in my community. It will have an effect on schools and people’s houses. It will have an effect on people’s quality of life. I am deeply concerned about that and I have stated my concern in this chamber on many occasions over the last seven or eight years. The challenge is to manage the impact of this, and therefore my request to the federal government will be to work with me and other representatives to
develop an effective noise management plan for this new major imposition on Brisbane’s southside residents.

**Wakefield Electorate: Clare Medical Centre**

Mr **FAWCETT** (Wakefield) (9.58 am)—I rise today to draw the attention of the House to an innovative model of medical care which I had the pleasure of opening in Clare last week. The Clare Medical Centre is a $2.2 million development in terms of infrastructure and, whilst I am pleased that the Australian government was able to contribute just under $200,000 to that, through the Rural Private Access Program and the Spencer Gulf Rural Health School, it is a sign of the commitment by Dr James McLennan and his team that they were prepared to raise and underwrite the capital to build this facility.

Whilst the facility is good—it provides a model for rural health care that I think should be taken note of around the country—it is really worth telling this parliament about because the proposal provides sustainability, not only for the medical workforce but also for the community. To take the community’s perspective, without a viable medical workforce it is hard to attract young people to come and work in a community in a regional town and it is impossible to keep a hospital going. In country areas the local GPs are also the doctors who provide the emergency and procedural services at the hospital, and they look after things like childbirth. But there is not a focus there to attract visiting specialists, so you tend to get a drift away from the town.

Importantly, this model also means that there is sustainability for the doctors not only in Clare but also in surrounding towns. Many small towns have a population large enough to need more than one doctor but not large enough to sustain two doctors. That means a solo doctor working in one of those towns has no opportunity for professional development or leave, and it is increasingly difficult to get a locum to relieve them. The Clare Medical Centre has now managed to provide both an outreach service in terms of a subagency and an outreach service that is cooperating and working with the solo practices in surrounding regional towns such that those doctors know that they will have consistent and quality relief on a regular basis, which makes both their lifestyle and their own ability to access professional development sustainable. That means that the community in that town is sustainable. I commend the model that James and his team have put together as well as the work that he and Steve Holmes—another doctor in Clare, who is the South Australian President of the Rural Doctors Association of Australia—have done at a national level in advocating for regional communities and regional health care and the changes that we need to implement from a federal government perspective to make sure that we have a sustainable and suitable rural medical workforce into the future.

**DISTINGUISHED VISITORS**

The **DEPUTY SPEAKER** (Hon. **IR Causley**) (10.01 am)—In accordance with sessional order 193, the time for members’ statements has concluded. Before the committee moves on to government business, I would like to welcome to the gallery of the Main Committee parliamentary officials from a number of national parliaments in the Pacific, Asia, Europe, Africa and the United States visiting for a two-week study tour.

**Honourable members**—Hear, hear!
Mr RIPOLL (Oxley) (10.02 am)—I rise to speak in this cognate debate on the Datacasting Transmitter Licence Fees Bill 2006 and the Broadcasting Services Amendment (Collection of Datacasting Transmitter Licence Fees) Bill 2006. This legislation follows the government’s decision announced earlier this year to auction currently unallocated broadcasting spectrum to provide new digital television services. This is the spectrum that was set aside in 2000 as part of the government’s disastrous datacasting experiment. As members will recall, the then minister, Senator Alston, attempted to create a new category of television service. In that event, the limitations on the types of programs that could be shown by datacasting licences were so restrictive that the auction failed. The failure of the government to use scarce broadcasting spectrum to allow the creation of attractive new services is one of the main reasons why its digital TV policy has been a spectacular failure.

This time around, the government has announced that the spare spectrum will be divided into two parts, known as channel A and channel B. Channel A will be reserved for in-home digital TV services and, depending on the technology used, it could provide up to eight television services. However, the holder of this licence will not be able to offer commercial broadcasting services. Channel A services will be limited to narrowcasting, datacasting or community television. This is an important feature of the regime and it is a point that I will return to later. Channel B will be subject to a less restrictive regime. There is a widespread view in the industry that channel B is most likely to be allocated to a licensee who will use the spectrum to provide mobile television services.

It is the intention of the government to auction the spectrum for channel A and channel B early next year. The bills before the House today are part of a number of steps that must be taken to allow the spectrum to be sold. These include planning the spectrum, designing the auction process and further clarifying the nature of the regulatory regime that will apply. The legislation before the House today relates only to proposed channel A. These bills facilitate the collection of licence fees from the holder of the new channel A datacasting licence. The Datacasting Transmitter Licence Fees Bill 2006 imposes an annual licence fee on the holder of a channel A licence based on the percentage of revenue received by the licensee. The bill provides that licence fees are to be levied on a sliding scale similar to that which applies to commercial free-to-air broadcasters. Fees range from half a per cent to nine per cent of the licensee’s revenue. The maximum rate of nine per cent will not apply until the licensee’s revenue exceeds $75 million.

The second bill in this package, the Broadcasting Services Amendment (Collection of Datacasting Transmitter Licence Fees) Bill 2006, provides payment machinery and record-keeping obligations to support the datacasting bill.
As I mentioned earlier, the government has indicated its intention to conduct the auction for the channel A licence early next year. The offer documents for the auction will need to specify the obligations of licensees. It is important that prospective bidders are informed as soon as possible about the nature of the regulatory obligations attaching to these licences.

Labor will support the passage of these bills through the parliament to impose a licence fee. The broadcasting spectrum is a scarce public resource. As a general principle, it is appropriate that the holder of a licence to provide services on this spectrum be required to pay an annual licence fee to the Commonwealth for the privilege of being able to offer these services. This principle has long been recognised in relation to radio and television services.

Notwithstanding the fact that the opposition will support this bill, we would like to take the opportunity provided by this debate to make some broader comments about the proposed channel A service and digital television policy in general. According to the government, the new channel A licence will have two significant policy impacts. Firstly, it has been argued that the new services will provide media diversity and will offset the effect of increased concentration and ownership as the inevitable consequences of the government’s new media laws. This claim is nothing but an attempt to deceive the Australian people about the impact of the new media ownership laws.

The restrictions on the new channel A licence mean that the services that will be likely to be broadcast will be limited to narrow types of services. There could be religious channels, a home shopping channel, a traffic report channel or a government services information channel. Channel A will not be a new commercial television service. It is nonsense to argue that these channel A services will offset the loss of diversity of news and opinion that would come about if a major metropolitan newspaper like the *Age* or the *Sydney Morning Herald* merged with a TV station like 7 or 9.

The government have also argued that channel A will be a significant driver of the take-up of digital television. This claim is open to considerable debate and I am sure we are going to hear from the government about what they think on this issue. As I stated earlier in the debate on the digital television bill passed last month, the government restricted the channel A services to programs which fit the description of narrowcasting, datacasting or community television. These of course are all niche services.

There is considerable scepticism in the media industry about whether there is a viable business model for channel A given that the licensee will be only able to show a limited range of programs. Perhaps that is something the member for Hinkler can address in his remarks—whether this will provide the sorts of services that he is looking forward to in regional Queensland or that might be provided to regional Australia.

News Ltd and Fairfax have indicated that they are not interested in bidding for this spectrum because they do not think that it is sustainable commercially. I think that says a lot about what the government is actually trying to do in this bill and what it has done in terms of its cross-media ownership laws.

It is interesting to note that in the explanatory memorandum to the datacasting bill the government declined to make any estimate of the amount of money that will be raised from the annual licence fee imposed by the legislation. This may be an indicator that even the government is aware that it is auctioning something that is unlikely to generate a significant revenue.
stream. It is very unlikely that channel A will make a significant contribution to driving the take-up of digital television.

The rollout of infrastructure to broadcast in digital has made excellent progress in the country—85 per cent of the Australian population can access all of their local free-to-air services in digital. However, in Australia and overseas it has been shown repeatedly that additional attractive digital content is the key to convincing consumers to invest in digital television. It is that element that has been missing from the government’s digital policy for the last seven years. The recent digital television legislation makes only a minimal attempt to address this deficiency. As most people would know, even if they have got digital television at home, it is almost a matter of saying: ‘Why would you have it? Why would you bother? Why would you spend the extra dollars required?’ It is quite expensive. The content that is likely to be shown on channel A will not appeal to a mass audience. It is clear that the rules regarding channel A were not designed with the interests of consumers in mind.

Back in 2000 the government set a target to switch off analog broadcasting by the end of 2008, which is now approaching very quickly. Of course, it has been clear for some time that there is no way this target will be achieved. Last week the Minister for Communications, Information Technology and the Arts, Senator Coonan, released what she called her ‘digital action plan’ to drive take-up so analog broadcasting can be switched off by 2012. Unfortunately the digital action plan is further evidence that the interests of consumers are a very low priority in the government’s media policy.

In the digital television legislation rammed through the parliament in October, Senator Coonan put in place a regime which limits consumer choice and reduces incentives for consumers to invest in digital technology. For example, commercial broadcasters can only run a second digital channel or multichannel in high definition until 2009—all a little bit too complex. At present HD equipment, high-definition equipment, is in only around seven per cent of households, which I think is a very poor outcome and an indictment of this government’s policies. It is typically three times as expensive as standard definition equipment. This restriction may suit the interests of some media companies, but it is very hard to see how it is in the interests of any consumers at all. The market for high-definition broadcast is so small that it must be doubtful whether it will be commercially viable for any broadcasters to launch a high-definition multichannel.

Senator Coonan’s legislation also severely restricts the ability of free-to-air broadcasters to show major sport on their digital multichannel service. Under the government’s laws, if for example there is a clash between the 7 pm news and a netball test between Australia and New Zealand, the ABC is not allowed to show the match live on ABC2. You would have to wonder how the government could possibly argue that this restriction is in the public interest. Again, perhaps that is something that the member for Hinkler can address in his remarks and tell us how that would be in the interests of his constituents, of regional and rural Queensland and of other regional parts of Australia. How will it encourage consumers to take up digital TV? This is the question that needs to be asked. This government is not serious about putting in place a media policy that puts the interests of consumers first.

There is much work to be done in getting Australia to the point of digital switch-over. As the minister admitted last week, more analog equipment is still outselling digital equipment. So, while 41 per cent of households have access to digital television, 26 per cent of house-
holds have two or more sets. One set-top box or digital TV per household will not be enough to allow switch-over to proceed.

Research commissioned by the Australian Communications and Media Authority indicated that only 17 per cent of televisions in Australia have been converted to digital. Again, that is a very poor outcome and a very poor indictment of the government’s policy in this area. The task of achieving digital switch-over is a huge policy challenge for this country. Australia and the UK are both due to complete switch-over to digital by 2012, some many years after the government had originally indicated would be the date. However, the UK is far more advanced than Australia along the path to digital transition. 72.5 per cent of households have access to digital TV in the UK and it is estimated that 40 per cent of TVs have been converted—a much better outcome.

In Australia there is still a widespread lack of awareness in the community about digital TV. Fifty-seven per cent of people do not know whether digital television is available in their area. Thirty per cent of people are not aware that analog broadcasting will be switched off at all. Measures announced in the digital action plan, such as improved labelling of analog equipment, increased consumer education on the benefits of digital TV and industry coordination, are absolutely essential and Labor encourages the government to progress these matters as quickly as possible. The announced measures, however, do not make up for poor government policy that limits the appeal of digital television to consumers.

The digital action plan announced by the government contains no additional money to allow the ABC and SBS to create new attractive digital content which would encourage consumers to take up digital. Labor believes that the national broadcasters have a key role to play in building a digital Australia. Through ABC2 and the SBS world news channel, the national broadcasters have shown that they are keen to embrace the potential of digital television. They need government to maybe go that one step further with them to make that happen. If public broadcasters are to exploit the full potential of digital television then additional funding will be required. It is the old case of the government needing to put its money where its mouth is. Currently ABC2, the ABC’s digital-only channel, runs on around $2 million a year. If you put that into the context of costs of programming and content, $2 million is literally a drop in the ocean.

As a consequence the service largely consists of time-shifted material from the main channel and children’s programming. Exciting new content is needed to drive digital uptake. Given where we are currently at in digital uptake, perhaps we need to go that one step further—swing the pendulum a little bit too far in order to make amends and bring people on board, to drive them to seriously look at digital uptake. Otherwise, I am afraid that even by 2012 we are not really going to get the sorts of outcomes that the government is hoping for.

The ABC and SBS both made bids in their triennial funding submission for the resources to make this content happen. The ABC asked for funding to broadcast an extra 200 hours of digital-only content for the ABC2 and ABC broadband platforms. Two hundred extra hours is not a lot. They also sought to develop interactive television enhancements to differentiate digital from analog television. SBS sought funding for two new digital-only channels. These proposals were completely rejected by the government which, if the government seriously wants to make this happen, should not be the case. In the UK, extra channels and interactive services offered by the BBC have been a key driver of digital take-up.
In the lead-up to next year’s budget I urge the government to reconsider providing extra funding to the national broadcasters as a way of increasing the appeal of digital television to ordinary consumers. The announcement by the minister last week that a firm date will be set for digital switch-over is welcomed, but there is no point setting a date unless it is backed by credible policies as well as dollars.

Senator Coonan’s digital action plan comes seven years after the former minister, Richard Alston, released his digital broadcasting industry action agenda. Regrettably, the digital television regime that the government has legislated means that Senator Coonan’s plan is likely to be only a moderate improvement on that of her predecessor. So while the government has spent years dithering on digital policy, other developed countries have rapidly moved into the digital age. People listening to this might draw a comparison to broadband to the home to show where this government has left this country in terms of moving into the 21st century properly.

The take-up of digital television in Australia lags well behind countries like the UK and the US where governments have invested heavily in the transition. Achieving digital switch-over offers sizeable benefits for the Australian economy as well as for consumers. It is not just about giving consumers a better viewing experience. The reason why governments around the world have made achieving digital switch-over a policy priority is that it offers a large efficiency benefit known as the digital dividend.

As I have said in the House previously, there is strong public interest in freeing up the spectrum currently used for analog broadcasting so that it can be deployed for additional TV channels or wireless broadband services. More efficient use of spectrum could be worth hundreds of millions of dollars to Australia. In addition to this efficiency dividend, achieving switch-over would end costly simulcasting where broadcasters are forced to transmit in both analog and digital, which is obviously inefficient. The government has conceded that every year it costs around $75 million to meet the analog broadcasting costs of the ABC and SBS, which assists regional broadcasters.

Digital switch-over would also allow these funds to be redirected to programming. I am sure that this would be welcomed by all viewers. I conclude my remarks today by restating that the opposition will support this legislation so that prospective bidders in the auction of channel A can have a measure of certainty about the costs involved if they want to acquire the licence. Labor has very grave doubts about whether channel A will have a significant impact on the take-up of digital TV. This government needs to seriously rethink its approach; it needs to design a policy that serves the interests of the community and serves the national interest and the economy. I commend the bills to the House.

Mr NEVILLE (Hinkler) (10.18 am)—The Datacasting Transmitter Licence Fees Bill 2006 and the Broadcasting Services Amendment (Collection of Datacasting Transmitter Licence Fees) Bill 2006 are another step forward in the allocation of channels through unused spectrums to enhance digital services. I welcome the opposition’s support of this legislation, but the previous speaker, the member for Oxley, was far too harsh in his assessment of what has been happening.

By way of preface, Australia, in adopting various forms of broadcast and telecommunications, has always taken the cautious approach. We were not one of the first countries out there with black-and-white television but, when we did get it, we had the best standard and it was
readily taken up. The same applied to colour television. I am confident the same will apply to digital television.

I remember David Hill, when he was the Managing Director of the ABC, giving a public lecture in Bundaberg. I was not in parliament at the time. He described Australians as electronic junkies. He pointed out the rapid take-up of black-and-white and colour television. He also talked about things like VHS machines, fax machines, mobile phones and the like and how readily we have embraced those things. For a country as wide and diverse as this, there is GSM coverage somewhere in the order of 96 per cent and CDMA coverage of about 98 per cent of people in their homes in this country. That is not to say that we cover the whole of the nation. You do not put 25 transmitters in Sturt Stony Desert, for example. But it has been an orderly and measured approach.

It is true that the turn-off date has been put back to the year 2012, but the government’s original plan was to turn it off in 2010. If I recall correctly, it was the Democrats which had that amended back to 2008, and that was probably too ambitious a target. But there have been a lot of movements over recent times, not the least of which is the fall in the price of set-top boxes. I have seen them as cheap as $49. I do not know how good they would be, but you can certainly get quite acceptable models—the member for Herbert is an expert in these matters—in the range of $50 to $100. There may be opportunities further down the track, with respect to those last few people who perhaps cannot afford set-top boxes, where the government will consider some form of subsidising those so that all people can participate in the digital agenda. I for one would certainly support that, and I know that the Minister for Communications, Information Technology and the Arts is not averse to it, although I think her view is that that would be premature at this stage.

The other thing we have to recognise is that all the free-to-air channels have seven megahertz of analog spectrum. That applies to the ABC, SBS and the three major commercial channels, and in most country areas—not all—their commercial affiliates also have seven megahertz. When we do turn off analog, a lot of spectrum will be freed up, and certainly the government and no doubt the people who wish to use the spectrum can be more expansive and creative. What we are doing now is putting a toe in the water of expanding digital television in two forms. One is in channel A, as the member for Oxley quite rightly said—a data-casting channel that includes datacasting, narrowcasting and probably community television. No-one is saying that that is the be-all and end-all of digital television—absolutely not. What we are saying is that it adds another dimension to digital television. It will, for example, have text and film, and the sorts of things that we will see will be another tool in the home’s total communications package that will allow people to get a better appreciation of the services that are available under this method.

As things like broadband expand across Australia still other opportunities in the digital field will emerge. Talking about channel A and channel B, they hold great opportunities for specialisation and specialties for Australian audiences. They also allow smaller niche proprietors and media proprietors into the market. Aside from data services and general texting, there would be information like the Stock Exchange, weather information and government services. There will also be a narrowcasting section where you can look at programming on things like religion, rural matters, lifestyle and shopping. The only restriction there will be that it must not be look-alike television. I felt the member for Oxley was straying into that field by saying
this channel A should be allowed some form of de facto recognition so that it could get into that field. Once you do that you then muddy the waters. I think it will be a matter of the government taking the brakes off slowly and, in so doing, enhancing the services that are available on channel A.

The two bills essentially extend the same licence fee obligations that the free-to-air commercial television stations have to whoever is the successful holder of the channel A licence. In other words, these licensees are required to pay an annual fee based on the gross revenue of each entity. The new entity will be no different. The government is amending the Broadcasting Services Act 1992 and creating a framework for the payment and record-keeping obligations of people who are going to participate in this channel A regime.

I would like to take the opportunity to expand on the potential I envisage channel A might hold. Australia is one of the most culturally diverse nations on earth. We are a multicultural and a multi-faith country, with the majority of our population living outside the metropolitan centres. These facts would indicate that there is a broad scope for attracting audiences that have a particular interest in specialised subjects, whether that be religion; business, through financial reports, Stock Exchange reports et cetera; rural content, through market prices and all those sorts of things; and government facilitation services. Interestingly, in the trial that is going on in Sydney at present, the New South Wales government is trialling those government facilitation services as part of a potential channel A type experience.

Although this matter has not been decided yet, I would favour seeing Channel 31, certainly in country areas, on this spectrum. I think that would allow the Channel 31 agenda to move outside the capital cities using this as the conduit. If you wanted to establish Channel 31s in most existing television markets it would be an extraordinarily expensive operation, probably beyond the capacity of most places, except perhaps Newcastle and Canberra. All the other areas I think would find it very difficult. I am one who would favour the use of community television through this medium, but, as I said, the matter has not been decided yet. I think it would really add to the scope and the reach of Channel 31.

The other thing we need to recognise is that if, as is being proposed now, some of the free to airs under the ‘lose it or use it’ provisions are going to make football games available to Channel 31, it would be untenable to have football on Channel 31 in the metropolitan areas but not available to people in country areas so that you could watch two games. I for one cannot understand why we cannot watch two football games on a Saturday or Sunday on, say, two separate channels, whether you do that by expanding the scope of multichannelling or whether you do it this way, through a channel 31. Why can’t we see, for example, the game of the day in high definition on a major channel and then, on a subsidiary channel—be that a multicast channel or a channel 31, which in this instance would probably be a narrowcast channel—watch the game of state interest?

If, for example, the Broncos are playing the Cowboys, it may not be the game of the day, but you can imagine that most Queenslanders would want to watch that. Or, if two Sydney clubs are playing and it is not the game of the day, you could imagine that a lot of Sydney people would still want to watch that game, be it NRL or AFL. I think that this is a good step forward. It is certainly new territory. There will need to be some experimentation, and I am sure that government will not be mean fisted in allowing whoever gets the licence to make a success of it.
There are some, too, that would like to see a competitive service to the ABC in rural areas, perhaps somewhat different from the major ABC channel—not necessarily a carbon copy of it—where you could have stock reports and interviews and things about rural matters, such as the use of chemicals, varieties of cropping, methods of harvesting, methods of marketing and all that sort of stuff. The ABC does an excellent job, and I do not diminish that for a minute, but this could be yet another service and it might allow industries in rural areas on a commercial basis to be able to support a narrowcast within a channel A format.

So it is another step forward. I do not know what the member for Oxley meant about the ABC, but the genre restrictions on the ABC and SBS are about to be lifted, which will allow them a lot more scope both in their major ABC channel and in ABC2. So this is a good bill and another step forward in digital transmission, and I commend the bills to the House.

Ms LEY (Farrer—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (10.33 am)—I thank the members for Oxley and Hinkler for their contributions on the Datacasting Transmitter Licence Fees Bill 2006 and the Broadcasting Services Amendment (Collection of Datacasting Transmitter Licence Fees) Bill 2006. I do, however, note that the member for Oxley made various disparaging comments during this debate about the government’s media reforms generally. This is the same rhetoric that we have been hearing from the opposition on these issues for some time now. It is very difficult to take them seriously when all we are hearing is opposition for opposition’s sake and no policies to offer in return.

It is the government that has done the hard work to achieve media reform that will deliver benefits to consumers and allow Australia’s media industry to adapt to and make the full switch to digital and continue to deliver quality services to consumers into the future, including the new digital services that are the subject of this legislation. By contrast, the member for Hinkler outlined, I believe very well, the benefits and the flexibility, particularly the flexibility of the new digital age in a country that, as he said, is diverse both in rural and regional areas and in culture and ethnicity. I thank him for that.

If I can use my own electorate of Farrer as an example, digital multichannelling will, I hope, allow the citizens of Albury, which is in New South Wales, to receive a New South Wales news service. At the moment the only one that we are able to receive on television is a Victorian news service. If they had a vote, most people would actually prefer the Victorian service. I do not know why. Nevertheless, digital multichannelling will give the people who want to see a New South Wales news service an opportunity to do just that, so that is one single advantage for my own area.

These bills are part of the implementation of the government’s media reform policies in relation to the allocation of datacasting transmitter licences for the two unallocated television channels. The Broadcasting Legislation Amendment (Digital Television) Bill 2006, passed by parliament on 18 October 2006, provides for the allocation of one set of licences: channel A datacasting transmitter licences for fixed, in-home, free-to-air digital services and the other, channel B datacasting transmitter licences, for a potentially wider range of digital services. These bills will require the channel A licence holder to be subject to a revenue based annual licence fee in addition to the up-front payment resulting from a price based allocation system. The Datacasting Transmitter Licence Fees Bill 2006 provides for the annual licence fee to be determined according to formulae based on the formula used to calculate commercial television broadcasting licence fees.
The Broadcasting Services Amendment (Collection of Datacasting Transmitter Licence Fees) Bill 2006 amends the Broadcasting Services Act 1992 and the Radiocommunications Act 1992 to provide payment machinery and record-keeping obligations to support the administration of datacasting transmitter licence fees. This will ensure that channel A services are subject to licence fees consistent with the fees levied on commercial television broadcasting services and that the compliance obligations in relation to datacasting transmitter licence fees will be similar to those currently imposed on commercial television broadcasting licences under part 14A of the Broadcasting Services Act.

Passage of these bills will enable the Australian Communications and Media Authority to set licence conditions for the channel A allocation process, which the government expects to be completed for both unassigned channels as soon as practicable in 2007. Once again, I commend the bills to the House.

Question agreed to.
Bill read a second time.

Ordered that this bill be reported to the House without amendment.

BROADCASTING SERVICES AMENDMENT (COLLECTION OF DATACASTING TRANSMITTER LICENCE FEES) BILL 2006
Second Reading

Debate resumed from 12 October, on motion by Mr Billson:
That this bill be now read a second time.
Question agreed to.
Bill read a second time.

Ordered that this bill be reported to the House without amendment.

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION AMENDMENT (AUDIT INSPECTION) BILL 2006
Second Reading

Debate resumed from 18 October, on motion by Mr Pearce:
That this bill be now read a second time.

Mr FITZGIBBON (Hunter) (10.38 am)—The Australian Securities and Investments Commission Amendment (Audit Inspection) Bill 2006 is intended to improve the cooperation between ASIC and the US Public Company Accounting Oversight Board for the purpose of audit inspections. The bill will also create a legislative framework so that ASIC can enter into similar arrangements as that with the PCAOB with other non-Australian audit oversight bodies.

Labor understands that ASIC, with written consent of the minister, may enter into an agreement or arrangement with a foreign audit regulator to assist the foreign regulator to ascertain whether Australian auditors have complied with audit requirements in that foreign country. We note that any such arrangement will have to be published in the government Gazette. To carry out the proposed arrangement with the PCAOB, ASIC’s audit inspection role and its information-gathering powers will be increased.

MAIN COMMITTEE
In recent years, both the US and Australia have experienced a number of corporate col-
lapses such as Enron and HIH in their respective jurisdictions, which have resulted in regul-
tory responses to both financial reporting and corporate governance. In the US the Sarbanes-
Oxley Act, as it was enacted in 2002, established the PCAOB to increase the regulation of
company audits. This act was far more prescriptive than the more principles based response in
Australia which was enacted through the Corporate Law Economic Reform Program 9.

Labor members who participated in the parliamentary joint committee inquiry on CLERP 9
looked particularly at whether reforms to Australia’s financial and reporting regime would
promote transparency and accountability, which were objectives stated in its explanatory
memorandum. Labor has been a proponent of initiatives to improve transparency in the audit
regime. There is a strong recognition from almost all stakeholders that transparency in report-
ing and decision making is vital. Domestic and foreign investors in Australian companies also
need to know that our audit process is reliable when making investment decisions. Major ac-
counting and audit bodies, whose reputations depend on the quality of their work, also benefit
from a good audit regime.

The requirements in the US are substantially the same as in Australia. For companies and
auditor firms that are subject to both regulatory regimes, there is duplication and significant
associated cost. This creates unnecessary economic inefficiencies. Where government can
reduce either inefficiency or cost without eroding the principles of disclosure, it of course
should. This bill presents such an opportunity.

The opposition supports this bill as it will make the reporting obligations of our largest op-
ervations more efficient and will reduce the overall cost of compliance for Australian compa-
ies and their subsidiaries subject to dual regimes. In turn, this will facilitate access to US
investment capital for Australian business. At present there are 24 Australian companies regis-
tered to raise capital in the US and 36 audit firms registered with the PCAOB to audit these
companies. In practice, though, there are five large accounting firms which perform most of
the work for these companies. These 24 companies are significant contributors to the Austra-
lian economy. The opposition welcomes the streamlining of reporting requirements for Aus-
tralian companies operating in both US and Australian jurisdictions. The costs associated with
the changes to the audit regime will be borne by ASIC and will be folded into its functions of
monitoring and compliance; $6.3 million will be dedicated over three years in the 2005-06
budget.

This measure is, after all, simply one part of a holistic approach to improving the quality of
our audit regime and the ability of investors and other stakeholders to rely on the regime.
Other reforms which were reviewed by the Parliamentary Joint Committee on Corporations
and Financial Services include the introduction of the international reporting standards, audi-
tor rotation, restricting the provision of non-audit services and declarations to indicate audit
independence. The opposition notes that ASIC, the Australian Bankers Association, the Group
of 100 and the Australian Shareholders Association have all indicated they broadly support
the proposal for greater cooperation between the US and Australia’s audit regimes.

In the US there is recognition that many companies which are subject to their audit inspec-
tion requirements are operators in global markets and so they develop the capacity within
their system to enable the PCAOB to rely on non-US oversight systems. The PCAOB has al-
ready entered into similar arrangements with Canada and the UK so that joint audit inspec-

MAIN COMMITTEE
tions can be conducted with local regulators, which streamlines the audit process. The PCAOB’s level of reliance is largely dependent on the standard of the local audit regime with which they engage. In its consideration of the CLERP 9 reforms, Labor strongly supported the key role of ASIC in improving Australia’s audit regime, as it is a statutory body which is independent of the audit profession. These arrangements were a major determinant for the PCAOB’s positive consideration of Australia’s audit regime.

The proposal which will allow mutual recognition between Australia and US audit regulators is a positive step and emphasises the credibility of our domestic regime. This is essential for Australian companies that are active participants in the global business market through cross-border holdings and other financial transactions.

The mutual provision by the US for our audit system may also have the effect of encouraging a stronger relationship on other corporate governance issues. In addition to the main amendments discussed, there is also a technical amendment in schedule 2 of the bill. Labor understands that this amendment clarifies the period in which the immunity from criminal liability under section 1455(5) of the Corporations Act for contravention of the previous auditing standard applies.

This change will mean that the current immunity applies to financial reports for the period ending on or before 29 June 2007 but not reports on or after 30 June 2007. This means that reporting periods starting after 1 July 2006 will be covered by the criminal provisions for breach of the auditing standards in line with the original intent. Clarification of this immunity will facilitate a smooth transition to the operation of this bill. In closing, the opposition believes that reliable auditing is fundamental for good corporate governance in this country and elsewhere. This bill is supported by the opposition as part of the ongoing initiatives to improve standards of financial reporting.

Mr DUTTON (Dickson—Minister for Revenue and Assistant Treasurer) (10.45 am)—The government would like to thank the member for Hunter for his support of this bill and for his contribution to the debate today. The bill will provide a legislative framework to empower the Australian Securities and Investment Commission, or ASIC, to enter into cooperative audit agreements or arrangements with foreign regulatory bodies. The Australian Securities and Investments Commission Amendment (Audit Inspection) Bill 2006 will also enhance ASIC’s current audit inspection powers.

The framework in the bill will enable ASIC to enter into an audit arrangement with the US Public Company Accounting Oversight Board, or PCAOB, to facilitate the two bodies conducting joint audit inspections of Australian auditors that are registered with PCAOB. There is a clear recognition by the parliament that with the globalisation of capital markets and the cross-border activities of companies and audit firms it is in the public interest to foster closer cooperation between Australian regulators and their overseas counterparts. While PCAOB is the only overseas regulator with whom ASIC at this stage proposes to enter into a cooperative arrangement, the framework within the bill will allow ASIC to enter into arrangements with other foreign regulators in the future with the consent of the minister. The proposed joint inspection processes between ASIC and PCAOB will provide significant cost savings for audit firms in that the firms will only have to accommodate one joint inspection rather than two separate inspections by ASIC and PCAOB.
ASIC’s enhanced audit inspection powers will serve two purposes. They will facilitate the proposed joint audit inspection arrangement between ASIC and PCAOB. The enhanced inspection powers are also designed to reduce compliance costs and clarify uncertainty about the scope of ASIC’s existing powers to review audit firms which the financial reporting council identified in its 2004-05 audit independent report.

The bill also contains an amendment to address a technical issue relating to a transitional provision applicable to auditing standards in the Corporations Act 2001. The life of the auditing standards made by professional bodies was extended by regulation to 29 June 2007. The technical amendment will extend the current immunity against criminal liability under subsection 1455(5) of the Corporations Act to cover all financial reports for periods ending on or before 29 June 2007 that are audited using auditing standards made by the professional bodies. As the drafting of those auditing standards is not as precise as it would be for an instrument intended to have the force of law, it is appropriate that criminal liability should not apply where an auditor fails to comply with the auditing standards. I commend this bill to the House.

Question agreed to.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.

DOCUMENTS

Report of the Inquiry into Certain Australian Companies in Relation to the UN Oil-for-Food Programme

Debate resumed from 28 November, on motion by Mr McGauran:

That the House take note of the following document:

Report of the Inquiry into certain Australian companies in relation to the UN Oil-for-food Programme, November 2006.

Mr Rudd (Griffith) (10.49 am)—This wheat for weapons scandal demonstrates three things: that this government was guilty of gross negligence on an important matter of national security; that this government subsequently engaged in a gross attempt at cover-up once its negligence became known; and, on top of that, this scandal resulted in a great cost to the Australian community and, in particular, to our hardworking wheat farmers. The government’s defence in relation to this scandal is a defence which rests on, in turn, three propositions: we were ignorant, we were incompetent and we were negligent. They are the three elements of the government’s defence—a defence of ignorance, a defence of incompetence and a defence of negligence. The reason they chose that defence was that if you were to argue that the government knew what the AWB was doing then at that point, at the admission of that, they became complicit in one way or another in potential criminality on the part of AWB operations in relation to Saddam Hussein’s regime. So the government chose instead a defence resting on ignorance, incompetence and negligence.

How does this defence stack up against the record which has emerged, the factual material which was presented during the course of the Cole inquiry—note that the commissioner was not asked to make determinations in any respect in relation to the incompetence or negligence of ministers in discharging their obligations under Australian administrative law, most particularly in respect of the foreign minister and his obligations under the Customs Regula-
tions to give effect to Australia’s international obligations to enforce UN sanctions against Iraq? We have documented a total of 25 warnings prior to the Iraq war which this government received by one means or another. There were a further 10 warnings which the government received after the Iraq war and before this tawdry scandal, the largest corruption scandal in Australia’s history which saw $300 million filter through to the enemy, was finally brought to a halt.

Warning No. 1 was in 1998. The Australian intelligence community held intelligence indicating that Alia Corporation, based in Jordan, was part owned by the Iraqi government and was involved in circumventing UN sanctions on behalf of the Iraqi government. This intelligence was distributed to DFAT, DOD and PM&C.

Warning No. 2, in September 1999. Australia’s senior trade commissioner in Amman was advised by the Iraqi Ministry of Trade that AWB Ltd was an exception to the usual Iraqi practice of not buying exports from non-favoured nations.

Warning No. 3, in November 1999. The Australian Embassy in Amman learned that AWB had been sending laboratory equipment to Iraq without UN approval. A series of internal DFAT emails revealed that DFAT believed that AWB’s actions were in breach of sanctions. One email says, ‘I believe this action to be in breach of UN sanctions.’ Another says: ‘AWB may have been doing this for some time but there is no benefit in launching a witch-hunt at this stage.’

Warning No. 4, in December 1999. Shell approached Austrade in Amman and expressed interest in taking any oil paid to the AWB for wheat at a premium. Shell were interested in an arrangement by which Shell would pay for AWB wheat shipments to Iraq. DFAT notes: ‘What is being considered here might breach UN sanctions.’

Warning No. 5, December 1999. On 21 December 1999 the Canadian permanent mission to the UN asked the UN Office of the Iraq Program about a proposed contract between the Iraqi Grain Board and the Canadian Wheat Board. Iraq was asking the Canadian Wheat Board to deposit $700,000 into a Jordanian bank account to cover transportation costs in Iraq. The Canadians told the UN, in December 1999, they understood that the Australian Wheat Board had already entered into this kind of arrangement.

Warning No. 6, in the first quarter of 2000. For the first quarter of 2000 the Australian intelligence community had intelligence indicating that Alia received fees in Jordan for inland transport within Iraq of goods purchased under the oil for food program. It received these fees as an agent for the Iraqi government. The fees, less a small commission, were paid into accounts accessible by Iraq in violation of sanctions. The amounts involved were substantial. This intelligence was distributed to DFAT, the Department of Defence, the Office of the Inspector-General of Intelligence and Security and PM&C.

Warning No. 7, in 13 January 2000. The UN raised concerns with the Australian permanent mission to the UN in New York. On 13 January the mission reported the meeting by cable, explaining that another country had alleged that AWB had entered into an arrangement with Iraq where it would pay $14 per metric tonne to a Jordanian bank account to a company owned by a son of Saddam Hussein. The UN asked if Australia would make some discrete high-level inquiries to ensure that the AWB was not in breach of sanctions. UN official Felicity Johnston said that she told our mission that the payments were for inland transportation.
DFAT Canberra responded saying, ‘We think it is unlikely that AWB would be involved in a breach of UN sanctions.’ The cable was sent without first contacting AWB.

Warning No. 8, on 10 March 2000. On 10 March 2000, our UN mission reports that, ‘Until we are able to provide a formal reassurance of this there will remain a question mark over the matter from the point of view of both the Office of the Iraq Program and the third country in question.’ We now know that third country to be Canada.

Warning No. 9, on 11 March 2000. Austrade’s representative in Washington reports that there are continuing concerns that the AWB had agreed to ‘irregular payment’ terms with the Iraqi Grains Board and that Austrade was ‘concerned that AWB do not understand the seriousness nor the urgency of the matter. It may be necessary to advise the minister of the situation’. This cable is copied to the Managing Director of Austrade and the Secretary of the Department of Foreign Affairs and Trade.

Warning No. 10, in March 2000. The Austrade representative in Washington met with AWB Chairman Trevor Flugge and AWB’s New York representative, Tim Snowball, to discuss the Canadian complaint. According to Snowball, Austrade indicated that there was ‘a big problem around the trucking fee and some exposure’.

Warning No. 11, on 22 March 2000. On 22 March 2000, DFAT Canberra reports by cable that AWB will provide the UN with a copy of its standard terms and conditions with Iraq. The cable, which mentions allegations of irregularities by AWB, is copied to the Prime Minister and the ministers for foreign affairs, defence and trade.

Warning No. 12, on 13 September 2000. On 15 September 2000, Mr Davidson Kelly from Tigris emails Charles Stott at the AWB saying:
For your information, Tigris is an Aussie registered company and enjoys the support of our friends at DFAT who, as I told you, are interested in the outcome of discussions to recover the Obligation. It was good to see you, Mark Vaile and Bob Bowker in Melbourne yesterday.
Mr Vaile has denied that he met Mr Davidson Kelly in Melbourne on 14 September 2000 as he was in Sydney. However, his spokesman later admitted that he was in Melbourne at a function for the launch of BHP’s sponsored report on trade and the Middle East on 13 September 2000 and may have met with Mr Davidson Kelly and Mr Stott.

Warning No. 13, in October-November 2000. On 20 October 2000, AWB Chairman Trevor Flugge wrote to trade minister Mark Vaile regarding AWB’s recent visit to Baghdad. AWB then had discussions with DFAT about its proposal to engage Jordanian trucking companies and then wrote to DFAT on 30 October 2000 seeking DFAT’s approval for this arrangement. On 2 November DFAT replies to AWB giving it the green light to proceed on this process, saying that it—that is, DFAT—‘can see no reason from an international legal perspective why you should not proceed. That is, this would not contravene the current sanctions regime on Iraq. International Legal Division has been consulted in the preparation of this response’.

Warning No. 14, in November 2000. By November 2000 the Australian intelligence community held intelligence indicating that Iraq’s transport charges for humanitarian goods under the oil for food program had been substantially increased. Alia was one of the means by which fees were paid to Iraq. The Australian intelligence community also had information that such fees would probably have been used for procurement purposes outside Iraq. This infor-
Information was forwarded to DFAT and Defence. Some of this information was sent to IGIS and PM&C.

Warning No. 15, in March 2001. By March 2001 the Australian intelligence community held intelligence of endeavours by Iraq to breach sanctions by, amongst other methods, collecting commission on contracts for humanitarian goods imported into Iraq under the oil for food program. This included information that Iraq violated sanctions by charging a commission of at least 10 per cent on imported humanitarian goods under the oil for food program and that the 10 per cent was rigidly enforced. This information was sent to DFAT, Defence and IGIS. One report was forwarded to PM&C.

Warning No. 16, on 7 March 2001. The New York Times carried a front-page article which outlined in accurate detail Saddam Hussein’s misuse of the oil for food program. The article reported Saddam’s use of bogus additional charges like inland transportation on commodity contracts, including wheat. It also reported concerns that Saddam was using the money earned through the scheme to buy weapons. The sources for the article included diplomats and United Nations officials.

Warning No. 17, on 8 March 2001. The US Acting Permanent Representative, Ambassador Cunningham, told the UN Security Council:

We have evidence that kickbacks have been requested. We don’t have any good evidence that they’ve been paid but one assumes this is happening. It has been going on for some time. We don’t have any means of assessing as I said yesterday, what the degree is, because obviously the companies that are doing this and violating the law are not going to come forward and admit they are doing it. Wasn’t he right?

Warning No. 18, on 9 March 2001. The Australian Permanent Mission to the UN in New York sent a cable to Canberra which reported that, according to UN officials, Iraq had begun demanding kickbacks and illegal commissions on contracts for humanitarian supplies. During a debate in the Security Council the UK had called on Iraq to ‘stop manipulating the program and stop blackmailing companies by demanding surcharges’. Norway had said that ‘everybody knows about the kickbacks’. The cable was sent to the Prime Minister, the foreign minister and the trade minister.

In a supplementary statement to the Cole inquiry, Mr Downer said that the cable had been opened by his chief of staff and forwarded to his Adelaide office but that he could not recall reading it. According to this cable access log, 71 DFAT employees read this cable, some of them on multiple occasions.

Warning No. 19, in April 2001. On 10 April, the Australian Permanent Mission to the UN in New York sent a cable to Canberra which refers to:

... anecdotal and in some cases hard evidence of Iraqi purchasers and agents demanding fees and commissions in association with the export of oil and the import of humanitarian supplies ...

The cable goes on to say that the mission had been approached by Iraqi officials in UN corridors who had complained that the sanctions committee could ‘complicate the matter’. The UN mission noted in its cable:

Iraq’s interest in keeping port fees outside the oil-for-food program appears self-evident from the Iraqi delegation to us ...
The cable was sent to offices of the Prime Minister, the foreign minister, the trade minister, the agriculture minister and a range of government departments including ONA, DIO, the Attorney-General’s Department and the Treasury.

Warning No. 20, in August 2001. Michael Wallbanks, from the British shipping giant P&O Nedlloyd, said that when his office was advised about the 10 per cent ‘after-sales tax’ levied by Iraq in 2001 he contacted the US and British navies, as well as the British embassy in Dubai. He said that the impost was common knowledge among anyone in the shipping industry who had dealings with Iraq.

Warning No. 21, in September 2001. The Australian intelligence community held intelligence indicating that inland transport fees for humanitarian goods, including fees paid through Alia, were proposed to be increased substantially by Iraq. This increase was on top of the 10 per cent commission already paid and the fees were payable in advance of delivery. The proposed increase in transport fees was to apply to all humanitarian goods delivered under the oil for food program through the port of Umm Qasr. This information was distributed to DFAT, the Department of Defence and IGIS.

Warning No. 22, in May 2002. The US General Accounting Office presented its report Weapons of Mass Destruction: UN Confronts Significant Challenges in Implementing Sanctions against Iraq to the Hon. Tom Harkin of the US Senate. The report sets out in detail Saddam’s misuse of the oil for food program, including the imposition of a 10 per cent levy on commodity contracts.

Warning No. 23, in August 2002. It was reported that at this time the agriculture minister, Mr Truss, was warned by prominent Victorian grain merchant Mr Ray Brooks that AWB was paying bribes to Saddam Hussein’s regime, at an occasion at the Mallee machinery field day in north-west Victoria. But according to this report he was told by Mr Truss to ‘stop peddling stories like that around’. According to Mr Brooks, Mr Truss said: ‘Ray, don’t give me that bull. The Wheat Board is run by farmers of great integrity and honesty. They wouldn’t do that sort of thing.’

Warning No. 24, on 21 August 2002. The Weekly Times reported that the dispute between the AWB and the Iraqi Grains Board was resolved through payments for inland transport. The article said:

An industry source said Iraqi negotiators extracted a $7 million saving out of AWB Ltd as part of the deal. The source said it involved the AWB subsidising transport of the grain from the Iraqi port of Umm Qasr to further inland and supplying grain testing equipment.

Warning No. 25, in December 2002. By December 2002 the Australian intelligence community held intelligence that Iraq was enforcing the 10 per cent commission on imports under the oil for food program. One means by which it was to be continued to be paid was by payment into accounts in Jordan. This intelligence was distributed to the office of the foreign minister, the office of the Minister for Trade and the Prime Minister’s office, apart from the usual AIC and DFAT regulations. It was also distributed to the Australian Federal Police.

These were the 25 warnings which the Australian government received prior to the Iraq war about what the AWB was up to in Iraq, yet this government’s defence was that it knew nothing. It was ignorant! It had no information at its disposal! It was therefore, on any reasonable man’s conclusion, incompetent and negligent.
We are left with this question, and it goes to the heart of public administration in this country: how is it that we spend hundreds of millions of dollars each year on our intelligence community and a diplomatic network to receive information of this calibre and quality into Canberra and nobody—I repeat: nobody—across the entire system of government here was capable of drawing upon these 25 warnings to at least proceed with a robust investigation of what was going on? That is the outstanding question here. It is a failure of public administration, at worst, of which this government is grossly culpable and negligent.

Mr Danby (Melbourne Ports) (11.04 am)—Yesterday the government claimed vindication by Mr Terence Cole’s report on his inquiry into certain Australia companies in relation to the UN oil for food program. Let me quote that raving leftie the economics editor of the Financial Review Alan Mitchell, who said today:

Howard’s vindication is primarily Terence Cole’s judgement that the government had no “actual knowledge” that AWB was hiding payments to the Iraqi regime by providing misleading information about its business arrangements.

But that is just one part of the broader judgement that the public must make.

“It is immaterial that the commonwealth may have had the means or ability to find out that the information was misleading, or that it ought reasonably to have known that the information was misleading,” Cole explains.

Immaterial to Cole with his narrow terms of reference, but not immaterial to the public.

I commend Mr Cole for his dedication in unearthing the truth about the corrupt conduct of AWB officials. He has done the Australian people a great service, but he could have done Australia an even greater service if he had been allowed to examine and report on every aspect of the AWB scandal. This scandal does not begin and end with the conduct of the AWB and its officials. The AWB did not act in a vacuum; the AWB is not just another private company. As the holder of a legal monopoly on the overseas sales of Australian wheat, the AWB was, in effect, an arm of the Australian government, even after it was privatised.

The conduct of the AWB, which Mr Cole thoroughly investigated, was only half of the story. The other half of the story was the legal and political environment in which the AWB operated and that was the responsibility of this government. AWB officials bribed people in Iraq. There is a devastating indictment in Mr Mitchell’s column today of the number of times Mr Cole cites Australian intelligence advising DFAT officials, and that all of them end with DFAT officials saying that ‘they do not recall having read, recalled or sought access to this intelligence that was provided to them’—all the way through to 2005.

In the Australian, I notice Mr Paul Kelly says that Cole judges that DFAT officials did not deliberately turn a blind eye to this bribing of the regime in Iraq. I contrast their insouciance with Colonel Mike Kelly, the deputy head of the Coalition Provisional Authority and a leading legal officer in the Australian Army, who after being just a few weeks in Iraq was able to work out what the AWB was up to—that is, that it had bribed the regime and was continuing to make these illegal payments. It is an amazing contrast.

The Prime Minister makes much of the fact that he told Mr Cole that he could ask for the terms of reference to be extended if he wanted, but that is a red herring. What the Prime Minister said was that Mr Cole could make the request if he believed that ministers or officials were engaged in criminal conduct. Criminal conduct is a very high bar to set. I do not know whether ministers or officials have engaged in criminal conduct. Quite possibly they have not,
but that is not the real question. The real question is whether ministers bear responsibility for the alleged criminal conduct of AWB officials named in Mr Cole’s report.

The real issue was responsibility—political and administrative responsibility. The real questions were: first, did the Prime Minister, the Deputy Prime Minister and the foreign minister, through their omission or negligence, create a climate in which Wheat Board officials came to believe that their criminal conduct had the approval of the government; and second, did those ministers do enough, or in fact do anything, to discover what the Wheat Board was up to and take steps to prevent it once they were warned about it? Those are the real questions, but Mr Cole was not able to give us a direct answer because the Prime Minister deliberately wrote the terms of reference in such a way as to prevent him from doing so.

The Prime Minister has once again been very clever, perhaps too clever for his own good. In order to cover up the negligence, incompetence and complacency of the foreign minister and Deputy Prime Minister, he has made himself an accomplice to their misdeeds. He stands politically convicted of this scandal, just as they do, because even though Mr Cole has been prevented from making a direct finding on the conduct of the ministers, his report has allowed the Australian people to draw their own conclusions and to make their own report on the government’s behaviour.

Although Mr Cole was not allowed to make direct findings about the conduct of ministers, it is not hard to read between the lines of some of his comments. Of DFAT, for instance, he says:

The critical fact that emerges is that DFAT—
the minister’s department—
did very little in relation to the allegations or other information it received that either specifically related to AWB, or related generally to Iraq’s manipulation of the Programme—
that is, the oil for food program. There are two issues here. The first is the level of ministerial oversight of what DFAT was or was not doing in relation to monitoring AWB’s behaviour. The Minister for Foreign Affairs and the then Minister for Trade, the Deputy Prime Minister, were jointly responsible for that. Despite the fact that they received more than 30 warnings, as outlined by the member for Griffith, that Saddam Hussein was corrupting this program and specifically that he was demanding bribes from wheat exporters, we are expected to believe that they never saw any of these warnings, that no-one in their staff did and that it never occurred to them to ask or to find out whether the AWB, which after all was one of the largest wheat-marketing companies in the world, was in some way involved.

It is hard to tell whether these two ministers have been knaves or fools, but perhaps we will find out when, as threatened, Mr Flugge calls the Minister for Foreign Affairs as a defence witness if he is charged with a criminal offence. In a criminal trial, under the scrutiny no doubt of the best QC money can buy, the minister will not be able to do his Arthur Daley impersonation, ducking and diving, as the government’s automatic majority allows him to do in the House.

But that is not all. In this case there was a particular agenda at work with relation to the AWB. For decades the old Australian Wheat Board acted in effect as the marketing arm of the Country Party. Even after it was privatised it was stuffed with National Party mates with backgrounds in the wheat industry: ‘The National Party on tour’, as the opposition leader
called it yesterday. The prize exhibit here is Mr Flugge, who in 1987 stood for the National Party for the seat of O’Connor. The member for O’Connor is thus something of an expert on Mr Flugge. Let me quote him yesterday:

The dogs have been barking about corruption for years. A number of people—who were not Liberals—were constantly out in the market place saying it was the way you did business in the Middle East. If our side of politics is guilty of anything, it’s of trusting a mob of agri-politicians—all of which have close connections to the National Party.

I do not often agree with the honourable member for O’Connor, but here he clearly knows what he is talking about. The key to this scandal is the long-established cosy relationship between National Party ministers and the leadership of the wheat industry who have been protected ever since World War I by the so-called single desk, a monopoly arrangement that like all monopolies is a breeding ground for corruption. I refer Liberal members opposite to every conservative economist from Adam Smith to Milton Friedman, who talk about the evils of monopoly, if they do not believe me. The spectacle of a Thatcherite government propping up a corrupt marketing monopoly is truly amazing. What has happened to economic rationalism?

The AWB scandal will damage Australia’s economic interests for years to come, particularly now that protectionist inclined Democrats are back in control of the US congress. I expect a devastating problem for Australia from Senator Harkin, who now controls the new Democrat dominated agriculture committee in the US Senate. As the Australian argued yesterday:

For a small country such as Australia with a heavy reliance on commodity exports, the benefits of honest world trade are self-evident. If Australia’s pleas are now met with increased scepticism on Capitol Hill, it will be because AWB was happy to pay bribes to Saddam and the Government did nothing to stop it.

The belief that bribery and corruption are acceptable ways of doing business, at least in the Middle East, is not confined to the National Party, however. This belief has been given a veneer of respectability by statements of certain academics and former diplomats, the people who form a too influential Arabist lobby within the Australian academic and diplomatic network. One of these is Dr Andrew Vincent, Director of the Centre for Middle East and North African Studies at Macquarie University, who on ABC radio in February opposed even having an inquiry into the AWB at all on the grounds that it would damage our wheat trade. Dr Vincent said:

... the bottom line is that in some parts of the world international trade is done with kickbacks, with considerations, with bribes, with whatever you want to call them. And if you don’t pay those kinds of considerations you won’t have a market.

Then we have Mr Bruce Haigh, the former Australian ambassador to Saudi Arabia, who wrote on his website—and he has been constantly writing in the Financial Review—that the Cole commission:

... has given trade competitors a blunt instrument with which to hit Australia over the head as well as injuring the AWB, which in the past secured wheat deals of $4 billion annually.

With views like this prevalent amongst Australian diplomats and in universities where Australian diplomats and DFAT officials learn about the Middle East, it is no wonder the current Minister for Trade, Mr Truss—perhaps not the brightest bulb in the government’s chan-
lier—thinks that the AWB payments to the Saddam Hussein regime were no worse than some sort of commission payment that you make to a real estate agent when you buy a house.

It is no wonder that Commissioner Cole singled out a leading Middle East DFAT official, Bob Bowker, referring to his failure to investigate intelligence relating to general rorts of the oil for food program. It will be very illuminating, as the member for Griffith recounted, if the recalcitrant Mr Davidson-Kelly is extradited to Australia and charged. He will have some very interesting things to say about the meeting that took place at the Point Restaurant in Albert Park between himself, the trade minister and Mr Bowker. I am sure the government does not want what went on at that meeting, in my electorate, to come out at that trial.

I think honourable members recognise that I know something about the Middle East, even if they do not always agree with me about it. One of the things that has angered me most about this whole affair is the complete indifference that seems to have been displayed by the AWB, by DFAT and by this government about the political context of AWB’s behaviour in relation to Iraq and particularly about the ultimate use to which Saddam Hussein put the $224 million he got from the AWB.

Saddam in the 1990s was a desperate man. Having lost both the Iran-Iraq War and the Gulf War, his regime was on the ropes, cut off by UN sanctions from oil revenues and arms imports. This was the precise juncture at which the AWB came to his rescue. As one of the leading participants in the rorting of the UN oil for food program, the AWB’s $224 million was one factor—and, in my opinion, a major factor—that allowed Saddam to recoup some of his losses and re-equip his forces. Saddam may not have had nuclear weapons, but the French and Russians will sell you a lot of conventional military hardware for $224 million. It was that re-equipping that emboldened Saddam to defy the UN over inspections of his suspected weapons stocks and programs, and of course it was Saddam’s defiance that led to the US led invasion in 2003 and to the current imbroglio in Iraq.

Saddam also had a program of making payments to the families of Palestinian suicide bombers, paid out of the same Rafidain Bank in Jordan into which the AWB made its payments to the bogus trucking company Alia, which was in fact controlled, owned and operated by the Ba’athist regime then in control of Iraq. I cannot prove that AWB money went to the families of the suicide bombers who have killed hundreds of innocent people since 2000, but neither can anyone prove that it did not. It was in the same bank, and it was probably transferred from one account to the other. This is where the geniuses, the 12 evil men from the AWB, had their worst effect—not that they would care. The AWB has a lot to answer for, and so do those ministers whose incompetence and complacency let the AWB get away with its corrupt actions for so long.

The Financial Review has an editorial on Mr Howard’s double standards in today’s paper. It begins by quoting that immortal television series Yes, Minister:

‘Decent chaps don’t check up on decent chaps to see that they’re behaving like decent chaps.’ That Prime Minister John Howard and Foreign Minister Alexander Downer have managed, in their defence of the government’s conduct in the AWB oil-for-food scandal, to make this quotation from Yes Minister seem relevant in 2006 is a tribute to their creative powers of spin.

I conclude by saying that this is a saga that is not over yet. The government think they have got off. They think, with this five-volume, narrowly focused report, that charges against these people will be delayed beyond the next election. This is not over though for the foreign minis-
ter, the Prime Minister or the former Minister for Trade. An aggrieved Mr Flugge is yet to sing but, when he does at his prospective trial, I am sure a lot more will come out on the incompetence and involvement of this government in this incredible scandal where an Australian monopoly benefited one of the most evil regimes in the world and stole the public money of the people of Iraq, put in a UN account. This was all done, as the member for Griffith has repeatedly pointed out, despite 35 warnings to this government. It is a record of shame which this government think they will survive because of the narrow terms of reference of this report. However, it is a record of shame that they will not survive because, in the long term, the Australian people will make a judgement about this. As I pointed out, this is not over yet. The criminal trials of these people will see much more evidence adduced.

Ms VAMVAKINO (Calwell) (11.19 am)—The findings of the Inquiry into certain Australian companies in relation to the UN Oil-For-Food Programme, chaired by the Hon. Terence Cole and otherwise known as the Cole inquiry, were finally tabled in parliament this week. This report has been much anticipated, certainly by this side of the House, and has certainly been the subject of intense media and public interest and speculation.

The Cole inquiry’s mandate was to investigate allegations first made in the Volcker report that the Australian Wheat Board had knowingly breached United Nations sanctions against Iraq under the United Nations oil for food program by paying financial kickbacks to Saddam Hussein’s regime over the course of five years. The report now confirms that allegations of deliberate violations of the UN oil for food program are true and that the AWB is guilty of the most serious forms of corruption. As such, Australia now stands out as the biggest single contributor to kickbacks paid to Saddam’s regime. This is a reputation that has damaged our country’s reputation and standing in the eyes of the international community.

In 1995 the United Nations Security Council adopted resolution 986, which established Iraq’s oil for food program. Under the provisions set out in the oil for food program Iraq was allowed to trade its oil for basic humanitarian goods, such as food, in order, as we all know, to alleviate the widespread suffering that years of UN sanctions against Iraq had created for the country’s civilian population. We all remember the many images of children dying in hospitals because there was no money for medication—children dying in poverty. The people of Iraq have suffered horrendously over a long period of time and, unfortunately, continue to suffer.

From 1996 onwards, AWB began selling Australian wheat to the Iraqi Grains Board under the oil for food program. As the Cole report notes, by 1999 approximately 10 per cent of Australia’s annual wheat exports were being sold to Iraq—obviously this is significant for the Australian wheat industry. In June 1999 the Iraqi Grains Board introduced a new condition of tender in its contracts with the AWB, which required, as we have now learned, AWB to pay an additional fee of some $US12 for every metric tonne of Australian wheat delivered to Iraq. This additional fee was described as a ‘discharge and land transport fee’, although AWB was never under any obligation to arrange for the discharge and transport of Australian wheat exported to Iraq. In essence, this fee was the kickback that AWB was expected to pay to the Iraqi government if it wanted to continue exporting wheat to Iraq.

We now know that executives of AWB were well aware that this additional fee was paid as a kickback to Saddam’s regime and that it therefore breached UN resolution 661, which prohibited any funds being made available to the government of Iraq. In short, AWB entered into
a series of short-term and long-term contracts with the Iraqi Grains Board in late 1999, the terms and conditions of which included this new $US12 discharge and transport fee. It drew the necessary funds for that additional fee from a United Nations escrow fund by concealing their true purpose and it then paid these funds to the government of Iraq via the Jordanian company Alia, which received these kickbacks on behalf of the Iraqi state company for water transport. Throughout all of this the AWB made no arrangements for either the discharge or transport of Australian wheat in Iraq once it arrived in the port of Umm Qasr.

Over the course of 2,000-plus pages, the Cole inquiry report goes into extensive detail over AWB’s duplicity in breaching UN sanctions against Saddam Hussein’s regime. However, as detailed as it is, the report handed down by the Cole inquiry provides us with only half the picture. The fault lies not with the inquiry itself but with the inquiry’s limited terms of reference, which purposely restricted the scope and reach of the inquiry and its investigations.

It is important to note that the Cole inquiry’s terms of reference were set by the Prime Minister and, as such, it was the Prime Minister himself who exercised full control of the parameters of this investigation. The terms of reference were conveniently limited to investigating criminal breaches of the law only. What the Cole inquiry was not empowered to do was to investigate either government negligence or ministerial responsibility regarding the AWB scandal.

Over the course of five years, AWB signed 41 contracts with Iraq that contained kickback payments to Saddam Hussein’s regime in breach of UN sanctions and each one was approved by the Minister for Foreign Affairs, Mr Downer. Let me make this clear: the foreign minister of Australia approved the 41 contracts AWB made with Iraq that stand at the very heart of this scandal. What is more, it was the foreign minister who was also charged with the ministerial responsibility to ensure that no Australian company breached the UN sanctions against Iraq pursuant to the Customs prohibited exports regulations.

Let me reiterate the point that the responsibility for ensuring that no Australian company breach UN sanctions against Iraq fell squarely on the shoulders of the Minister for Foreign Affairs. At the same time, it was the same minister who approved AWB’s kickback contract with Iraq. To all of us—except, it seems, the members of the government—the circumstances surrounding the AWB scandal signal a clear breach of ministerial responsibility on the part of Mr Downer and are a resounding example of sheer incompetence and negligence on the part of his department.

The foreign minister’s response, however, to allegations that he failed in his ministerial duties under both Australian and international law has been nothing short of absurd. In a nutshell, the minister’s only line of defence has been a pathetic attempt to portray himself as an innocent victim of deceit on the part of the AWB and its executives. His excuses continue to both insult the intelligence of the men and women of Australia and show complete contempt for the notion of ministerial responsibility, which I might say remains seminal to our Westminster system of government and Australia’s democratic rule of law.

I do not need to remind the government that it is currently pursuing the option of introducing a formal citizenship test into Australian law that will require new migrants to pledge their respect for democracy and the rule of law in Australia, which the Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs lists as one of the defining values of Australians. What hypocrisy it therefore is when this government asks new migrants to re-
spect Australian democracy when members of its own senior cabinet are unwilling to do the
same but instead continue to show complete contempt when it comes to upholding the integ-
rity of Australia’s democratic institutions and the foundations of transparency and account-
ability that they are built on. The foreign minister would resoundingly fail the very citizenship
test being proposed by the Parliamentary Secretary to the Minister for Immigration and Mul-
ticultural Affairs.

Notwithstanding the Cole inquiry’s limited terms of reference, we still, however, get
glimpses of DFAT’s gross negligence throughout the report. In volume 4 of the report we
read:
The critical fact that emerges is that DFAT did very little in relation to the allegations or other infor-

mation it received that either specifically related to AWB, or related generally to Iraq’s manipulation of the
Programme.
The truth is that, at different times over the five years that AWB was paying kickbacks to
Saddam Hussein’s regime, the Prime Minister, the foreign minister and the then Minister for
Trade and Deputy Prime Minister between them received some 35 warnings that raised seri-
ous concerns over the conduct of AWB. The truth is that neither the Prime Minister nor the
foreign minister nor the then Minister for Trade and Deputy Prime Minister made the slightest
attempt to act on these warnings or to investigate the allegations being made about AWB and
Iraq’s manipulation of the oil for food program.

What we have here is nothing less than an example of gross negligence right across three
government departments and an unflagging case of a clear breach of ministerial responsibility
on the part of the foreign minister, who took absolutely no action to investigate allegations of
impropriety on the part of AWB—yet he was charged with ensuring that no Australian com-
pany breached the UN sanctions against Iraq. We also know that two officials from the gov-
ernment’s own trade body, Austrade, met with the 51 per cent owners of Alia, the al-Khawam
family, and we know that just before the outbreak of the Iraq war AusAID took over an AWB
wheat contract that included some 50,000 tonnes of wheat shipped to Iraq on board the Pearl
of Fujairah. The Minister for Trade at the time, Mr Vaile, had a hand in convincing AusAID
to take over the AWB wheat contract.

The government’s protestations of innocence in the face of AWB’s web of deceit is not the
only excuse we have heard. We have also heard the excuse that the foreign minister does not
read his memos, which begs the question of just exactly what the foreign minister does. Then,
how can we forget the chorus of: ‘I don’t know; I can’t recall; I can’t remember’—that chorus
that we heard from the trade minister when he was called to give testimony before the Cole
commission. What all this spells is a web of negligence, incompetence and deceit on the part
of the government that easily matches AWB’s own web of deception. What we have before us
is a scandal that the Howard government is doing its very best to sweep under the carpet, but
it is a scandal that will not go away.

The AWB’s wheat for weapons scandal has done enormous damage to Australia’s interna-
tional reputation. It is one more example of the enormous damage that the Howard govern-
ment has done to Australia’s international reputation over its 10 years in office. The Howard
government’s appalling treatment of refugees, whom it used as a political football, singled out
Australia as a looming international pariah on human rights. The Howard government’s re-

fusal to sign the Kyoto protocol has isolated Australia on the international stage when it
comes to climate change and the environment. The Prime Minister’s support for the war in Iraq—an illegal war based on deceit and one for which the people of Iraq continue to pay the highest price—has singled out Australia as an aggressor nation with scant regard for the international norms and laws pertaining to war. And now we have the AWB scandal, one which has damaged Australia’s international trade reputation and undermines the broad perception of Australia as a country free of corruption. The AWB scandal completely undermines Australia’s moral authority and credibility when it comes to our country’s role in helping our Pacific neighbours with the vexed issues of corruption in our region and corruption in their own levels of government.

It has cost Australian wheat farmers somewhere in the vicinity of $500 million in lost contracts so far, and for AWB shareholders it has seen the price of AWB shares cut in half. The government’s continued attempt to duck and weave its way out of acknowledging its own negligence and its own share of responsibility for the AWB scandal has only deepened the cynicism ordinary Australians feel about those who are elected to represent them in this place.

The government now claims that the report handed down by the Cole inquiry somehow exonerates it from any responsibility for the wheat for weapons scandal, but it does nothing of the sort. Rather, the Cole inquiry shields the government from any criticism, and the Australian public, I am absolutely certain, will see through this shield. The question of what the government knew about the AWB scandal remains unanswered. We on this side of the House will continue to pursue the Howard government for honest answers rather than glib PR and spin, and I can assure you that we look forward to Mr Flugge’s testimony because I am certain, as my colleague the member for Melbourne Ports indicated before me, that Mr Flugge’s testimony will open up a whole new world into the practices, attitudes and perceptions of the Howard government.

Ms ANNETTE ELLIS (Canberra) (11.32 am)—I rise this morning to speak on the motion to take note of the report of the Cole inquiry into the UN oil for food scandal, which has occurred as a result of the current government’s negligence. I would first like to quote from the censure motion moved by the Leader of the Opposition yesterday, which basically outlines Labor’s concerns about this issue:

That this House censure the Prime Minister, the Deputy Prime Minister and the Minister for Foreign Affairs for:

(1) its negligence in failing to act on the 35 warnings it received over a five year period thereby allowing this $300 million wheat for weapons scandal to occur;
(2) for its attempted cover-up of this scandal through its attempts to shut down a US Senate inquiry into AWB in 2004; its reluctance to cooperate with the Volcker Inquiry; and its failure to provide the Cole Inquiry with powers to determine whether or not Ministers did their job in enforcing UN sanctions against Iraq;
(3) for the cost that has been borne by Australia’s hardworking wheat farmers because of this Government’s negligence—farmers who have now seen half a billion dollars of their Iraqi wheat market lost;
(4) for allowing $300 million to be funnelled from AWB to Saddam Hussein’s regime which the Iraqi dictator used to buy guns, bombs and bullets for later use against Australian and coalition troops; and

MAIN COMMITTEE
for the damage inflicted on Australia’s international reputation because this Government’s negligence turned Australia into the world’s single biggest violator of UN sanctions against Iraq.

This is a scandal of enormous proportion and has led to the current government seriously damaging Australia’s reputation internationally. It is fair to say that much has been said and will be said about this shameful period of Australian history—a period which I fear will be looked back on in years and decades to come with shock and disbelief.

Due to the complexity of this issue I would like to briefly summarise the events. In 1990, following Iraq’s invasion of Kuwait, the United Nations imposed sanctions on Iraq. This meant that no funds were to be provided to the government of Iraq or to persons within Iraq. It also prevented nations from trading with Iraq, except for the provision of medical or humanitarian supplies. To prevent civilians from suffering hardship or starvation, the UN Security Council established the oil for food program, which allowed Iraq to sell oil under UN approved contracts. The proceeds from these sales were to go into a UN controlled account, and Iraq was permitted to buy humanitarian goods and foodstuffs. Through this program Iraq began to buy significant quantities of wheat from the Australian Wheat Board, the AWB, in 1996. By 1999 AWB was selling to Iraq about 10 per cent of Australia’s annual wheat exports.

The problem is that the AWB began paying kickbacks or additional moneys directly to a third party, which was providing funds to the Iraq government—that is, to the Saddam Hussein regime. This was illegal, and the AWB knew it. The AWB continued paying these fees and hiding these payments from about 1999. So under this government $300 million was funnelled from AWB to Saddam Hussein, who used those funds to buy those guns and those bombs and those bullets which were later used against Australian and coalition troops. This is also being done, I might add, through a period of time when there was the debate in this country as to whether or not we should enter what was the so-called coalition of the willing and go into combat in Iraq.

It disturbs me very deeply to think that while we were having that debate in this country, a very divided debate where there were very strong opinions against our entry into this war, and while the government was making its decision—I believe much earlier than it announced—to go to Iraq, this very action is occurring. As has been said in many debates in the parliament—and now, thankfully, many commentators in this country are also talking about this whole event in very open ways—while this was all happening warnings were being given around the world. At the UN, all over the place, people were talking about the potential problem we had on our hands with the AWB paying this money to a trucking company that owned no trucks. The whole thing is so ridiculous, just so out of reality, that if it was not so serious it could be the plot for a Monty Python movie. Yet it seems to me, to the commentators and to everybody who looks at this—even to Cole to some extent—that there were warnings abounding around the place. The deeply disturbing thing for me is that no-one in the government—the Prime Minister, the Minister for Trade, the Minister for Foreign Affairs, their departments, their officers—seemed to think that it was an important enough thing to do something about. This is extraordinary.

At the same time that this is all happening, at the same time that $300 million is flowing into that ghastly regime, I as a member of this parliament, sitting in the parliament as a very proud member of this parliament, copped abuse being hurled at me constantly from the other side of the parliament. Whenever we got up and said, ‘We disagree with our engagement in
the war in Iraq.’ I and my colleagues on this side of parliament were all accused of being fans of Saddam Hussein. I remember those interjections very well. I remember every one of them. I took offence at them then and I take extraordinary offence at them now—now that we know what was going on while members of this government were hurling that sort of abuse across the chamber. Whenever we got up and said, ‘We disagree with the engagement in Iraq,’ at the same time $300 million was flowing through to that very regime—and I was being accused, because of my objection, of being a ‘fan’ of Saddam Hussein; that we did not want to see him removed. The immorality of this is gobsmacking—that is the only word I can apply to it. It disturbs me greatly. Now what we have got is a government holding up this five-volume defence—and I am not in any way accusing Commissioner Cole of anything here—that they made certain they would get by the terms of reference presented to Commissioner Cole, as their means of escaping their responsibility.

As far as Westminster systems go, as far as honesty in government goes, as far as the responsibility of individual ministers goes, I despair as to where we now sit in this country in terms of responsible government—a government with morals and a morality we should be proud of, that we used to be proud of. This country had an amazingly fantastic international reputation once; I am not sure about it now. It is all thanks to the people ruling this country at the moment who seem to think they can just do what they want.

The government is really quick to say that it knew nothing about the kickbacks. That is very hard to believe. In fact, I think it is impossible to believe. But if you do believe it then you can only conclude that the government is extremely incompetent. The government received 35 warnings about these kickbacks and it chose to ignore all of them—35 warnings. I cannot believe that people in this government knew nothing of this occurrence.

The Cole inquiry report is 2,065 pages long—as I said, it is five volumes. The government says it did not do anything wrong and the Cole inquiry supports that, according to the terms of reference it had. But clearly that means that the government did not in fact do anything right. It was warned 35 times that the AWB was paying kickbacks, but it did nothing. It did not look into the matter at all. I do not think it is possible for any government to be more arrogant, incompetent or lazy in relation to such an important matter.

Our Australian troops, for whom we hold extraordinary pride, are over there representing us as best they can with the training they have had. We wish them well, every single one of them. Simon Crean, the Leader of the Opposition at the time, had the strength to stand up and say, when he was farewelling those troops with our Prime Minister in that first dispatch of troops to Iraq: ‘We wish every single one of you well. We truly, though, don’t believe you should be going’—and we still believe that.

It has saddened me even more this week when I heard, following the tabling of the report in the parliament, that there were a few celebratory little parties emerging around the corridors of this parliament. I could give the benefit of the doubt and imagine that it may be because we are heading into the Christmas period, but it is a little hard for me to convince myself that there was not a little bit of relief partying going on as well—‘Thank goodness we have got out of the Cole question; we’ve got that behind us. That is a thing we can move off our agenda.’ I find that pretty sad.

I know that a number of constituents in my electorate find this whole thing really quite deplorable and they have told me that. The Australian people deserve nothing more than for the
Prime Minister of this country to come clean on exactly what has really been going on here. I talk about people having the knowledge. We have heard previous speakers refer to the fact that maybe there was an attitude around. Some people have supposedly reported conversations they have overheard where a suggestion might have been given that the AWB could have been doing something incorrectly and the response was: ‘Oh no, hang on, the AWB are a pretty responsible mob, they are a pretty good bunch of blokes, they wouldn’t do that.’

The whole philosophy of this government begs many questions, and the question for me is: if it is good enough for this government to make a decision that the AWB are good blokes, that they would never do anything wrong, why, at the same time, do we have people on welfare or with disability who have to prove that they are innocent to this government when they attempt to receive assistance payments? There is definitely an imbalance here. If this government thinks you are a pretty good bloke, a decent sort of fellow, you can do anything. But if you happen to be a welfare recipient in this country then you have a whole different set of tests to go through—and that philosophy and morality of the government we have running this country at the moment worries me.

I feel incredibly strongly that I need to put on record my total and absolutely heartfelt objection to this whole dirty episode. It is not good enough to hold up five volumes of a book as a firewall between you, the government, and the people. What is good enough is honesty and morality. But I am afraid it may be some time—in fact, it will be until there is a change of government—before we see any of those decencies come back into the Australian democratic system.

Mr BRENDAN O’CONNOR (Gorton) (11.44 am)—I rise to contribute to the debate on this particular report and associate myself with the member for Canberra and other members on this side who have raised serious concerns about the way in which the government has chosen to respond to what is of course a very serious assault upon the Australian Wheat Board, its actions and behaviour. Indeed, that is clearly outlined in five volumes of reports by Commissioner Cole. What we do know, however, is that since the report has been tabled the government have chosen to pretend that somehow they have no role to play and have sought to suggest that they should be accused of no wrongdoing because there has been no wrongdoing on the part of the government or a particular minister.

The Labor Party fundamentally disagrees with that proposition. There is no doubt in the mind of, firstly, Commissioner Cole—who is of course limited by the terms of reference but who even with respect to those terms of reference concluded—that there was gross misconduct on behalf of people representing the Australian Wheat Board. Indeed, there was a failure—a fundamental, systemic failure of government—to consider the complaints that were being made by all sorts of people and parties with respect to the behaviour of the AWB. There is no doubt that the Minister for Foreign Affairs and the Minister for Trade at the time failed to have regard to the multitude of complaints that were made over a long period of time about the unlawful behaviour of the AWB.

I guess it should not surprise us on this side and indeed this nation. If a government is willing to engage in an unlawful war, why should I be surprised that it does not concern itself about the unlawful behaviour of the Australian Wheat Board? The fact is that this government chose, through its own negligence, to fund two sides of an unlawful war. I think it should
therefore be condemned by the parliament and condemned by this nation that the government would allow the AWB to continue its actions in a manner that has brought this country into disrepute.

Labor warned the government that it was not in the interests of this nation or indeed in the interests of the world that we follow the Bush administration into Iraq. We said it was not going to assist Iraqis; it was not going to assist the citizens—the men, women and children—of Iraq; it was not going to in any way do anything other than place our troops in harm’s way. It was not an assault upon terrorism. In fact, it was going to increase the likelihood of terrorism both in that region and at home. I think those things have been shown to be true.

As the supporters of the war start to drift away and start to join those that were originally in opposition to the war, we have to therefore take note, and soberly take note, of the conclusions of the Cole report. In that report, Commissioner Cole clearly points out the list of complaints that were made, which makes a mockery of the answers of the government that they could not and did not know that there were serious bribes going on to fund the Saddam regime. I know my colleague the shadow minister for foreign affairs, the member for Griffith, did attempt in his contribution to articulate the multitude of warnings, but because there were so many he was only able to reach 25 warnings that the Minister for Foreign Affairs was notified of. I would like to continue where the shadow foreign affairs minister left off by adding a further 10 warnings that were made to the government or should have been known by the government.

On 19 May 2003, the foreign minister met with senior BHP Billiton figures in London to discuss BHP’s bid for the Halfayah oilfield in Iraq. BHP told Mr Downer that BHP executives had been working on oil for food projects in order to maintain relationships with Iraq and:

... in September 2000 BHP transferred rights in Halfayah to a Joint Venture led by Tigris Petroleum, headed by BHP executives who were responsible maintaining relationships with Iraq by working on oil for food related projects until a normal political situation could be established in Iraq.

BHP said they and Tigris had already briefed the PMO, DFAT, Defence and AFFA about their interests in the Halfayah oilfield.

On 3 June of the same year, US Wheat Associates wrote to the US Secretary Of State, Colin Powell, about concerns that some of the money paid under AWB contracts ‘may have gone into accounts of Saddam Hussein’s family’. On 6 June 2003, the then Minister for Trade rejected the US allegations out of hand, describing them as ludicrous and insulting, and instructed the embassy in Washington to convey his views to Secretary Powell. On 10 June of the same year, an Australian representative on the CPA, Michael Long, received a memorandum of instruction from the CPA. This memorandum asked ministry advisers to, among other things:

Identify which contracts have a kickback or surcharge. We need to know what percentage kickback or “after sales service fee” was involved under the “Extra Fees” category. Your ministry is likely aware of this charge so please work with them to identify and indicate on the matrix.

Long forwarded the memorandum of instruction to DFAT, who forwarded it to the AWB on 13 June.
On 23 June 2003, the Australian representation in Baghdad sent a cable to Canberra outlining the new Coalition Provisional Authority’s reprioritisation of contracts in the immediate postwar period. It stated:

Every contract since phase 9 included a kickback to the regime from between 10 and nineteen per cent. The CPA was advising ministries to tell companies with contracts that the “after sales service fee”, which was usually to be deposited in offshore banks, would be remitted to them.

This cable listed for action Dr Calvert, DFAT, Mr Smith, secretary of Defence, and General Cosgrove, Chief of Defence Force. For information it listed the Prime Minister, the Minister for Trade, the Treasurer, the Attorney-General, the Minister for Foreign Affairs, the Minister for Defence, ASIO, DIO and ONA. On the warning between June 2003 and January 2004, the AIC held intelligence that the former Saddam regime had four suppliers and that the OFFP was to pay Iraq the 10 per cent commission. These reports were distributed to DFAT, the Department of Defence, the Treasury and the department of industry.

In an interview with SBS’s Dateline on 8 February 2006, Senator Bill Heffernan said that AWB had been coming into his office for the past 2½ years and that:

I kept saying to them we hear that you blokes are on the take as it were or giving kickbacks.

On 12 September 2003, the US Department of Defense published a report into the misuse of oil for food which found that AWB’s contract was potentially overpriced to the tune of $US14.8 million. In October 2003, Treasury officials working on secondment to the Iraqi ministry of finance as part of the Coalition Provisional Authority forwarded to Canberra a report that found that Saddam’s regime required that 10 per cent of the face value of contracts they submitted under the oil for food program be paid directly to the regime.

In the same month in 2003, on 22 October, US Senator Tom Daschle, the Democrat senator from South Dakota, wrote to US President Bush asking him to investigate claims that Australian wheat was sold to Iraq at inflated prices and that money was then given secretly to Saddam Hussein’s family to maintain trade. He urged Bush to discuss the matter with the Australian Prime Minister, John Howard, during his visit to Australia. The Australian Embassy in Washington wrote to Senator Daschle describing the allegations he raised in his letter to the President as reprehensible. In the same month in the same year, on 23 October, the embassy in Washington sent a cable reporting a discussion with Senator Daschle’s staff about the Democrat letter to President Bush. A contact told the embassy that they had been advised by State that:

... its scrutiny of OFF contracts revealed that 10% had been added to the price of every OFF contract.

There are another 10 warnings that were provided to departments of this government, indeed to the minister’s office, that were ignored by this government.

It is a sad indictment that the government has not even had the good grace to accept that it has fundamentally failed the Australian people, it has fundamentally failed to regulate AWB’s behaviour. There has been no acceptance of ministerial responsibility, whether it be by the Minister for Foreign Affairs or by the Minister for Trade. I think the fact that the government has failed to do so shows that this is an out-of-touch government, a government that thinks it can get away with anything, that holds the Australian people in such contempt that it does not believe people must be accountable for their actions or, in this case, their inactions.
It seems to me that everybody knew that the AWB were providing kickbacks to the Saddam regime except Minister Downer and Minister Vaile, if we are to believe the government. That clearly could not be the case. That clearly is not true, and we argue therefore that these ministers must go. They must resign. They must follow the principles of ministerial accountability. This government has to take some responsibility for the failures of the AWB, the crimes that have been committed in the name of this country, otherwise we will be condemned around the world for deliberately turning a blind eye to this corrupt practice—which, in the end, aided and abetted an enemy of this country, a dictator who ultimately was being funded and therefore armed to potentially kill and maim our Australian defence forces.

Debate (on motion by Mr Neville) adjourned.

**ADJOURNMENT**

Mr NEVILLE (Hinkler) (11.56 am)—I move:

That the Main Committee do now adjourn.

**Waranga Channel to Lake Eppalock Pipeline**

Mr GIBBONS (Bendigo) (11.57 am)—I rise to urge the federal government to support, through the National Water Commission, Coliban Water’s application for funding under the water grants program to construct a pipeline connecting the Waranga channel to Lake Eppalock near Bendigo. Funding this project would represent a wise and strategic investment in water infrastructure, improvement in water management as well as good practice in the stewardship of Australia’s scarce water resources. This undertaking, along with a suite of initiatives outlined in Coliban Water’s 2005 water plan, will provide an underground water project that will improve Australia’s efficiency and environmental outcomes in line with the objectives and intent of the National Water Initiative fund.

The Coliban Water Authority has also had a plan under consideration for the past few months to access groundwater from the vast aquifers located under the Castlemaine, Kyneton and Elmore districts. A study of the DNRE map of Victorian underground water areas indicates a vast mass containing huge volumes of good-quality water. My office is currently undertaking research into obtaining an accurate indication of just how much water is available from these underground sources. As I said, the preliminary studies show potentially huge quantities of water may be available.

As I said, Coliban Water has been investigating the feasibility of accessing groundwater to secure the water supply for the Castlemaine and Kyneton districts as well as investigating using groundwater from the Elmore district to supplement Bendigo’s water needs. This presents an opportunity to consider going a step further and providing the infrastructure to enable groundwater from these sources to be pumped directly into the entire Coliban water system, which, I believe, in conjunction with the Waranga to Eppalock pipeline, would virtually drought proof the centre of the Victorian region completely for decades.

Service water from the normal catchment areas of the Coliban and Goulburn-Murray systems by the Eppalock pipeline will secure our water requirements, but only if we get appropriate inflows into these catchment areas in the future. If the drought conditions worsen, utilising the available groundwater would become essential. We need to immediately consider providing the infrastructure to access this source of water.
Once the infrastructure is in place we can then use available groundwater, if and when required. This would provide adequate insurance to ensure the region has access to the quantities of fresh water so essential for our wellbeing and survival. When the drought conditions pass, the region’s catchment returns to somewhere near normal and we get a surplus of surface water, we should have the capacity to put water back into these groundwater reserves for future use. In other words we would be establishing a water bank, accessing the groundwater from these aquifers in severe drought conditions and then replacing it with our surface water when the conditions return to normal. This is not rocket science, but it should drought proof the region for our future generations. After all, isn’t that our obligation and responsibility?

The Waranga channel to Lake Eppalock pipeline proposal meets a number of the eligibility criteria outlined in the Water Smart Australia funding guidelines. The project would be the major component of a strategy to address an imminent water crisis that has major implications for regional Victoria. It would therefore produce a substantial water resource management outcome in rural, regional and urban areas. It would have a high degree of certainty in delivering outcomes that are repeatable, lead to sustained changes in water management practice and produce significant environmental, economic and social benefits. It would be more appropriate to name the Waranga to Eppalock pipeline ‘Bendigo’s lifeline’. That is how critical this project is. While regional Victoria’s water catchment areas continue to decline as a result of the prolonged drought, this pipeline may well be the lifeblood of the city of Bendigo.

Bendigo is the fastest-growing region in central Victoria, with an annual growth rate of 1.8 per cent. Townships along the Melbourne to Bendigo corridor, including Kyneton and Castlemaine, have also experienced substantial growth in recent years, and significant future growth is planned and anticipated. The drought conditions over the past few years, along with increased demand due to growth, has placed the water supply system under extreme stress. Despite some of the harshest water restrictions in Australia, our water reserves are currently far below normal capacity. Lake Eppalock, which provides 80 per cent of Bendigo’s water supply, is currently at around three per cent of capacity.

A prolonged water shortage will have a major and adverse impact on the growth of the regional economy. Several well-established business and community leaders have in recent months publicly expressed concern that the lack of additional water and capacity is already adversely impacting on decisions to establish or grow businesses and business enterprises and attract the necessary skilled and professional staff vital to Bendigo fulfilling its role as a major regional centre—including in areas such as health, education, aged care and banking. An adequate water supply is also critical for the region’s significant agriculture and viticulture industries.

The proposed Waranga to Eppalock pipeline project will enable water sharing between the Junee water catchments and provide for greater flexibility and interconnectivity within the Coliban water catchment area. In meeting these objectives of the Water Smart Australia program, the project would provide significant economic and environmental benefits, including providing the potential to access water for additional flows, with benefits for the capacity and ultimately— (Time expired)

**Ryan Electorate: Education**

**Mr JOHNSON** (Ryan) (12.02 pm)—The important issues in Ryan electorate cover such vast policy areas as health and roads and infrastructure, but they also include education. I am
very pleased to speak in the parliament today and to advise all the mums, dads and students in the Ryan electorate who have a very strong interest in the quality of their education system and in the funding of their schools that the Ryan electorate has received over $1.8 million worth of funding for the 16 schools in Ryan that have been eligible for funding under the federal government’s Investing in Our Schools program. I am very delighted to commend all the wonderful initiatives the parents and friends groups of the schools in Ryan have come up with, because they certainly have come up with some wonderful projects where this money can go to improve facilities, to provide additional equipment to the students at the various schools and simply to make the experience of learning in the schools of the Ryan electorate all that much more significant and beneficial.

Under the Investing in Our Schools program, the federal government is providing over $1 billion worth of funding over the 2005-08 years to fund both government and non-government schools in the area of capital projects that have been specifically identified and prioritised by the local school communities themselves. So these projects are not projects coming from the top of bureaucracy; they are coming from the very heart and soul of the school—the parents themselves quite often, I have been told from the schools that I have visited, with great consultation and great discussions coming from the school body, the students themselves.

Of this $1 billion, $700 million has gone to government schools and $300 million has gone to non-government schools. Of course, this is on top of the Howard government’s $1.7 billion that has already been allocated for school capital works in that same time frame of 2005-08. I am sure that the Ryan constituents very keen on following government policy and on following school programs and school initiatives would be very interested to know—in particular, the schools and parents themselves would be interested to know—that there were over 8,300 applications received in the two rounds of 2005. There has been an enormous amount of interest and enthusiasm for this very commendable education policy program that has been formulated by the Howard government.

I want to mention quickly the schools in my electorate that I am very proud to represent here: Hilder Road State School in the Gap; Ironside State School in St Lucia; Chapel Hill State School; Indooroopilly State School; Indooroopilly State High School; Jamboree Heights State School and Jindalee State School, both in the ‘centenary’ suburbs of the Ryan electorate; Kenmore State High School; Moggill State School; Payne Road State School, also in the Gap; Pullenvale State School, a wonderful school in a beautiful part of the Ryan electorate; and the Rainworth State School, where I had the great opportunity to meet students. The Rainworth State School was given $45,000 out of a project cost of $50,000 to cover musical instruments and resources. They are a talented group of young people who, with the extra funding for musical instruments, certainly exhibited their great talent in welcoming me with their performance. Both the Gap State High School and the Gap State School also received funding to the tune of $78,000 and $124,000 respectively for the completion of shade structures and library music facilities. The Upper Brookfield State School received funds as well.

Again I thank in the parliament all the parents for the hard work that has been put into this program. Of course, writing up the application grants is no mean feat and they deserve my full support and they will continue to get that. As the sitting federal member for Ryan I look forward to representing the parents of Ryan in the year ahead.
Ms PLIBERSEK (Sydney) (12.07 pm)—It is hard for parents who have a child with special needs or a disability to find child care for that child and it is indeed a difficult thing for carers to take on a child with special needs. It amazes me that this government is making it harder for parents to find care for children with special needs and harder for carers who take on a child with special needs.

On 1 July 2006 the inclusion support subsidy was introduced, replacing the special needs subsidy scheme and the disabled supplementary services payment. Draft guidelines have been drawn up by the Department of Families, Community Services and Indigenous Affairs and full implementation will occur by January 2007.

What this new inclusion support subsidy means is that family day carers will only receive subsidies to look after a child with a disability if they give up another childcare place. That means if they are able to have five children in their care and they decide to have a child with special needs and receive a subsidy for that child, they will only be able to care for four children. What that means, in effect, is a drop in income for a large number of family day care providers who take on a child with special needs.

It is phenomenally difficult now to find child care for a child with special needs. To ask family day carers to take a drop in their already small income to care for such children means that it will be even more difficult to find family day carers able and willing to take such children. That means that parents of children with special needs will find it harder still to find child care for their children.

Under the old system, if a carer looked after a child with a disability they received a subsidy to help with the extra training and resources they needed to look after that child effectively, but they were not automatically required to reduce the number of children in their care. Where a carer made an assessment that they did need to reduce the number of children in their care because of the seriousness of the disability or the needs of the child, they received a subsidy to compensate for the loss of income of having to give up another place in their care.

This means that family day carers, who provide care for over 3,000 children with additional needs and who care for 40 per cent of all children with disabilities who use formal child care, will under the new system actually have to, in many cases, give up income to continue to look after children already in their care who have special needs, or to take other children with special needs into their care. Labor does not believe that family day carers or any child carer who is doing the very difficult and demanding work of child care, and in addition to that taking on a child with special needs, for whom it is difficult to find child care in the first instance, should expect to lose income when they make this decision. It is simply not fair.

I have been contacted by a number of family day carers who described their situations, including Nancey from Clearview in South Australia. She talks about a number of children in her care, including one boy who has a difficult family situation, is often suspended from school and has few friends. Nancey writes: ‘He is not easy to care for and will lose his DSUPS payment.’ Her own daughter, who is five years old, also uses family day care once a week because she has a recognised developmental delay. She is in the care of a woman who has three children in her care as well as her own child. She will not receive the subsidy unless she drops one of those children from her care. Which child should she ask to leave her care?
Julie, a nurse, can deal with children with tracheotomies. She has learnt Auslan to deal with the deaf children in her care. For four years she studied Auslan so that she can care for children more effectively. She will lose $750 a fortnight in income because of this change. She has made it her specialty to care for children with extreme extra needs and she is expected to take a $750 a fortnight pay cut because she wants to care for children with disabilities. It is unjust and it is unfair—it is unfair for kids, for parents and for carers.

Fisher Electorate: Unity College

Mr SLIPPER (Fisher) (12.12 pm)—I am pleased to rise in the chamber today to applaud a wonderful new cooperative ecumenical school, Unity College at Caloundra, which was opened recently by His Grace the Catholic Archbishop of Brisbane, John Bathersby, and the moderator of the Uniting Church. It is a joint Catholic-Uniting Church school. The buildings are owned by the Catholic system but there is a cooperative arrangement with the Uniting Church, and I think this is a very positive initiative. The Australian government has given close to $4 million towards the establishment of Unity College, which was used for capital works. The money comes from the Australian government’s capital grants program for schools.

The funds will go towards the construction of 16 general learning centres, learning support areas, two computer laboratories, pupil amenities, pedestrian travel, a physical education covered area and music, science, home economics and art rooms. The project also includes conversion works to provide an administration area and library as well as external services, site works and new furniture. The funding forms part of a $6.5 million project to further develop the school.

I went to Unity College and I met Rudi Goosem, the principal, and I have to say that I am particularly pleased with the approach that Mr Goosem brings to Unity College and the vision he has for the future. I would like to commend the Roman Catholic and Uniting Church communities at Caloundra for working together in this cooperative way to make sure that a wonderful new school that will provide for both primary and secondary education is established within the electorate of Fisher on the Sunshine Coast.

I often think the Australian government does not get adequate recognition for the money that it spends on schools and schoolchildren. We must always remember, of course, that Australia’s schoolchildren are the future of this nation, and the funding to Unity College confirms the government’s continued commitment to a strong and effective school system, maximising the opportunities for young Australians. Mr Deputy Speaker Scott, you would be well aware that the Australian government will provide an estimated $33 billion in direct funding to schools and school students over the period 2005 to 2008. A key element of this funding package is some $2.7 billion for school capital works and infrastructure projects over the next four years.

Just for the record, I would like to point out that Unity College commenced operation in January this year with 135 students. It is part of an increasingly regular form of setting up a school insofar as it is a prep to year 12 school. As I said, it is owned and operated by Brisbane Catholic Education in partnership with the Uniting Church parish of Caloundra. The enrolment has grown to 161 students, with 30 staff, catering to preschool to year 4 and year 8. Each year, as time goes on, new classes will come on line and Unity College will meet a very real need for additional education in one of the fastest growing areas of Australia. The Sunshine
Coast, we anticipate, will approximately double in population over the next 10 to 15 years. One of the challenges we have as a community is to ensure that infrastructure keeps up with our rapidly growing population. The fact that the Australian government have given $4 million for new buildings at Unity College is an indication that the government are determined to assist Sunshine Coast school children, as indeed we do with respect to schools in other parts of the state and Australia.

I also should record that the Australian government contributed $41,920 under the Investing in Our Schools program to cover the entire cost for the installation of a shed for the storage of playground maintenance equipment and the purchase of a ride-on mower, whipper-snipper and other maintenance equipment. This is a wonderful program which picks up needs in school communities, in particular with government schools which state governments have failed to adequately fund. The Australian government’s Investing in Our Schools program is enormously popular with both government and non-government schools, because we have been able to carry out essential maintenance and improvements which are required and would not otherwise be able to be afforded by the school community. I commend Unity College and wish it every success in the future.

**Battle of Fromelles**

Mr Griffin (Bruce) (12.17 pm)—I wish to make a few brief comments on the Battle of Fromelles, which I know, Mr Deputy Speaker Scott, you are well aware of. It is a battle which took place over 16 hours in the evening of 19 July 1916 on the Western Front and which saw Australia’s worst ever battle casualties: 2,000 dead and 5,500 casualties in total. This year was the 90th anniversary of this battle. I had the honour of attending the 89th anniversary of the battle last year at Fromelles and met with a number of the locals who still commemorate that battle and the activities of the Australian forces at that time. They treat it with a good deal of respect, and it was certainly a great honour to be there, particularly to catch up with Martial Delebarre, who I am sure the Deputy Speaker met when he was over there. He works for the War Graves in that area and has played a great role there. That has been acknowledged with the award of an Order of Australia for the work that he has done with respect to commemorating the activities of the Australians on the Western Front.

The matter which particularly concerns me, apart from the continued grieving of the families of those lost, is the fate of 170 young men whose bodies were never found and whom we know were buried by the German army in days and nights following the battle. These men were killed within the German lines which they captured temporarily that night or behind those lines prior to the successful German counterattack. Their names are known as they were recorded by the Germans and this information was passed on to the Red Cross at the time. The mystery has always been: where were they buried? The dedicated detective work by Mr Lambis Englezos of Melbourne, among others equally persistent, led to the belief that many of these young Australians were buried just beside the village of Fromelles in northern France, in a farmer’s field beside Pheasant Wood, along with some of their British comrades, 326 of whom were also buried by the German army at the same time. It should be noted that there were possibly other burial sites too—the sap trenches dug that night by the Australians and possibly another site nearby known as Manlaque Farm.

Since the thesis on Pheasant Wood was proposed to the government the response has been typically reticent and on occasions combative, the single theme being denial. The govern-
ment’s reluctance to act appears to be predicated on three arguments: firstly, that there were no mass graves at Pheasant Wood; secondly, that even if it did occur, it is highly unlikely that such large burials would not have been discovered and bodies disinterred; and thirdly, in any case, the French would not like us fossicking around looking for bodies.

It is now clear from recent documents provided through the German embassy, namely German regimental records of what they did on the days following the battle, that mass graves were in fact dug beside Pheasant Wood. The details of the process are remarkable, including the identification processes, the order of burial and the detail of the German units and their commanders who undertook the task. This is an amazing revelation and in itself requires the government to now get active and finally investigate this information properly.

The government’s assertion that it is unlikely that recoveries were not undertaken after the war is also conjecture. The fact remains that no evidence of any such record has been found—and those records are renowned for their scrupulous detail. As for the government of France, it is impossible to imagine that with some simple diplomacy the French would not do everything possible to assist an immediate investigation of the site at Pheasant Wood. This is especially true given the close ties we enjoy with France when it comes to our common and shared history on the Western Front.

We on this side have never sought to politicise this matter, but it seems that the attitude of denial from some parts of the bureaucracy and the delay over the last two years have been completely unwarranted. The expert panel appointed to consider the evidence, for example, has not met for 18 months, though we understand it will now meet on 15 December. I would also mention that a House of Lords committee looking into this same matter is to meet on 12 December, so it may well be that the British take the initiative before us.

On behalf of all those families who still wonder where their relatives and loved ones are buried, we urge the minister to get cracking, contact the French government immediately and investigate Pheasant Wood as a top priority. I do not know what will be found, but there is now more than enough evidence to act on this. The Battle of Fromelles is extremely important to our military history and heritage. This government should act now to protect this heritage and to reveal the final fate of those brave young men who sacrificed so much for their country, rather than offering the same old tired excuses that nothing can or should be done.

When I visited there last year, I actually walked that area with Martial Delebarre where it is alleged those burials took place. I oversaw parts of the battlefield. I certainly urge members, if they are travelling in that part of France, to go down and have a look. There are some quite impressive memorials. It is one of those battlefields that we do not hear as much about. More should be known. There is an excellent little museum there with some quite amazing stuff that does not get shown publicly as much as it should because of issues of funding, but it is certainly a place that I would encourage all Australians to visit to see a very important part of what was our history in World War I.

Kurnell Peninsula Desalination Plant

Mr BAIRD (Cook) (12.22 pm)—Recent events have shown that the New South Wales government is trying to sneak its shelved desalination plant back onto its agenda. New South Wales planning minister, Frank Sartor, announced two weeks ago that he approved the development application for the plant to be built on the Kurnell Peninsula. This belies Mr Sartor’s
previous cancellation of the program. Mr Sartor now says that the plant is not necessarily going to be built. If the state government is not necessarily going to build the desalination plant, as they say, why would they be approving a development application for it to be built? Why would they have spent $100 million? In addition, they have now built a pilot plant on the site to road-test the technology, yet they are not necessarily going to build the plant! This smacks of policy by stealth.

The Kurnell Peninsula is of major historical and environmental significance to the people of the Sutherland shire, Sydney and indeed around Australia. It is of course the birthplace of modern Australia. It was the landing place of Captain Cook in 1770 and of Captain Arthur Phillip and the First Fleet 18 years later—all now being taught in Australian schools as a result of our fine policies. It is also the site of the first encounter between Indigenous and European peoples and cultures and the site of first resistance by the traditional owners and the original inhabitants of New South Wales. Kurnell is also of great environmental worth and recognised in international accords—it is protected in part by the Ramsar treaty as well as the Japan-Australia migratory birds and the China-Australia migratory birds agreements.

It is a disgrace that the state government is so intent on putting this plant on such a historically and environmentally important site. They seem to have no regard for the history or the unique ecosystems of the area. Neither do they seem to care about the local residents of Kurnell. The plant will create even more traffic and noise problems for local residents. You would think that they had suffered enough with the sand mining and the factories continuing to be built around them.

The proposed desalination plant would have a very negative impact on the environment, particularly on local marine life. The plant will pump 750 million litres of hot concentrated brine into Botany Bay every day. Let us not forget that Cape Solander at Botany Bay is considered to be the whale super highway. Only last year 1,608 migrating humpback whales were recorded passing through this area in the 68 days of the whale migration. This is a record since whale counting began 10 years ago and 200 up from last year. What kind of effect will 750 million litres per day of brine have on these whales? What about the thousands of people from the Sutherland shire and from around Sydney who have flocked to various viewing sites along the coast to watch these whales as they move past Botany Bay?

The plant would also be a heavy air polluter, depending on CO₂ emissions to produce their desalinated water. Sydney Water is of course committed to reducing greenhouse emissions from the plant by 50 per cent but exactly how they intend to do so has remained unannounced. Just how much air pollution is yet to be determined. The New South Wales government has not even undertaken an accurate environmental impact assessment because it does not need to because of the nature of the project. Details like the size of the plant, the final distribution routes and detail design are not yet available. Until distribution routes are released, how are we even supposed to know exactly how different communities around Sydney will be affected?

On top of all this, the plant is a total waste of money. The state government wants to spend $2 billion on a plant that would service the water needs of just 350,000 people and would promote the single use of water rather than education, recycling and re-use. The state government has already spent $120 million to complete the planning and infrastructure for the proposed plant and a further undisclosed amount for the land. It is a significant amount of
money that could have been used far more effectively providing incentives for water tanks or for any number of recycling projects.

Desalination technology is also massively energy intensive. Just running the plant would represent two per cent of Sydney’s daily power consumption. This is by the state government’s own estimates. At a time when we are concerned about global warming, this is a move in the opposite direction. Theemma government seems content to continue with its policies of environmental vandalism for the Sutherland shire. I question whether the state government has fully explored all the water recycling options available. The government seems to dismiss the question of recycling without proper consideration.

Has the government looked at the use of grey water or water from creeks and canals? Has it considered incentives for homes? Has it considered water tanks or recycling from stormwater channels? There are many other options that would be less expensive, less energy intensive and a better environmental solution than desalination technology. The state government should put the brakes on this proposal immediately. It is environmentally unfriendly, inefficient and unpopular.

Prospect Electorate: Australian Technical Colleges

Mr BOWEN (Prospect) (12.27 pm)—Last week the Minister for Vocational Education and Training came to Western Sydney to make an announcement. He announced the new Western Sydney Australian technical college. If ever there was a last-minute announcement cobbled together for spin, this was it. Of course, it is not the first time the minister has announced a new ATC for Western Sydney. He has done this before. He announced a joint venture with the Catholic Education Office for an ATC to be based in Blacktown. To much fanfare and with the support of the member for Greenway, he announced a great new Australian technical college at Blacktown. The problem is that it did not happen. Because of this government’s incompetence, the negotiations with the Catholic Education Office have broken down and the ATC is not happening.

What we have seen is the situation where an Australian technical college, which was to have 320 students next year under the Catholic Education Office proposal, will now have 25. This is this government’s contribution to the skills crisis in western Sydney: 25 students. This government will say, ‘Well, you know, the state governments underfund TAFE and we’re making the biggest contribution we can.’ It is worth having a look at just what the state government does do in Western Sydney when it comes to apprenticeships. I was quite surprised when I checked with the South Western Sydney Institute of TAFE to see that there were 75,000 students enrolled last year in the various TAFE colleges in south-western Sydney. That is 75,000 compared to the 25 that this government is going to put through next year. In the Western Sydney Institute of TAFE, I think there are 85,000. As for apprenticeships, there are 7,700 in south-western Sydney and 3,400 in Western Sydney.

The government announced this new college to great fanfare. Interestingly, they made the announcement at Blacktown in the seat of Greenway. I thought: they have made the announcement at Blacktown; that must be where the college will be located. In fact, it will not. It will be at Rouse Hill—a long way from Blacktown—at the Rouse Hill Anglican College. I congratulate the college. They have obviously worked hard and put together a proposal. It is great for them and I have no problem with them, and I am sure the 25 places at that college will be useful for the people of Rouse Hill. But I question their allocation, not only on behalf
of the people of Blacktown but on behalf of the people of Fairfield, the people of Wetherill Park and the people of Campbelltown and Liverpool.

I must say I was surprised. The member for Macarthur and the parliamentary secretary issued a press release after this announcement and said: ‘This announcement shows that Chris Bowen and Roger Price have been talking nonsense and this is great news for south-western Sydney.’ Rouse Hill is 50 kilometres from Campbelltown. That is how far somebody from Pat Farmer’s electorate needs to travel to get to this new Australian technical college. The first announcement was made last year and, when the Australian technical college bill went through parliament this year, the member for Lindsay said:

They have chosen the Blacktown area to establish their campus. It is a fairly central location. I figure that you could have at least two or three other technical colleges in Western Sydney.

The trouble, of course, is that it is not at Blacktown; it is now at Rouse Hill, further out of reach for the many thousands of young people in Western Sydney trying to get apprenticeships. This government talks about the skills crisis, but its contribution has been spin and fluff. When the minister made the original announcement, he said:

The only thing standing in the way of the community benefiting fully from this initiative is the New South Wales Government.

In fact, the only thing standing in the way was his incompetence in not being able to deliver a college in Western Sydney as promised.

I want to say this: the Catholic Education Office did a lot of work on this proposal and won the bid. Not only did they do a lot of work and invest a lot of staff hours but they invested a lot of money. I do not think they have been treated well by this government. I think their proposal was a good one and I think the people of Western Sydney will be very disappointed—and I note the Blacktown Advocate expressed great disappointment during the week. I and this side of the House have said before: the best thing that we could do for the skills crisis is to invest more money through TAFE. (Time expired)

Gilmore Electorate: Government Programs

Mrs GASH (Gilmore) (12.32 pm)—I would like to talk today about some of the things that have happened in the Gilmore electorate. I notice the member for Cunningham sitting opposite and I know she will not be very pleased about the MRI licence that has come to the Shoalhaven.

Ms Bird interjecting—

Mrs GASH—Thank you. Nonetheless, thanks to the MRI licence we now are taking on about 30 people a day, and I would say almost 20 of those would come from Wollongong; therefore your numbers will probably be reduced because of the MRI licence being available for the Shoalhaven. I cannot begin to tell you the joy that it has brought to a lot of people in the area, particularly now that they do not have to travel to Wollongong. As you know, the trains are very slow, even when they leave on time, so that is one of the benefits we have had from the MRI licence.

We have also had a number of water grants being delivered to our area in Gilmore. In particular, the schools, the golf courses and some of the nursing homes have benefited greatly from the water grants, thereby eliminating the waste of thousands and thousands of litres of water in the electorate of Gilmore, so I am very pleased to see that happen.

MAIN COMMITTEE
We have received almost $2.3 million in the electorate of Gilmore through the Investing in Our Schools package. Most of our schools have now participated; there are only a few left to go. I am very pleased to see that happen. Again, I cannot begin to tell you how pleased the schools, the parents and the P&Cs in particular, who put these submissions together, have been about this.

Also, we have a pilot program running in conjunction with the seat of Cowper to relocate our unemployed to areas with employment opportunities, particularly in Western Australia. I know that in the electorate of Cowper the first group left about six weeks ago, and I am really happy to announce that as of next week at least 20 of our local people from the Shoalhaven area in the Gilmore electorate will be relocating with the government’s blessing to Western Australia. At the moment they are being trained in Coffs Harbour, and again it is a project that is being very well received by the community in the electorate of Gilmore. It is a project that I certainly encourage any other member of the House to apply for if they have very high unemployment in their electorates.

I also want to say that our medical school at the Shoalhaven campus of the Wollongong university will be opening its doors in January 2007. That is, again, an initiative of this government. Some $10 million has gone into this project in conjunction with the Wollongong university. It is a first for our area. Mature age people can train to become doctors so that we in the country areas will have doctors of quality who can stay and practise in the areas where they trained. Again, it is a very good initiative and I am very much looking forward to opening those doors in the near future, in January.

The small equipment grants for the electorate of Gilmore, some $73,000, have been handed out. That is a very worthwhile project. For smaller community groups, the Australian government has now recognised the work that volunteers do. It is extremely important that we do recognise our volunteers from areas that you would least expect, be they from Meals on Wheels, Rotary clubs, Lions clubs or other community groups that participate by supplying volunteers. I do not think the nation realises how much we do rely on volunteers. Normally it is not something that the Australian government have been able to recognise. It is work that they have done and, again, I am very pleased to see this happen. Overall, the electorate of Gilmore has been very blessed with grants from the Australian government. I cannot begin to say how important they have been and how much and how well they have been received in our community.

**Veterans’ Affairs**

**Mr GRIFFIN (Bruce)** (12.36 pm)—by leave—I would like to make a few comments today regarding some other issues with respect to the Veterans’ Affairs portfolio, particularly with respect to the Department of Veterans’ Affairs annual report, which revealed some worrying and disturbing statistics about the time taken to process veterans’ claims, particularly those relating to injury claims.

For example, the time taken to process a primary compensation claim under the Veterans’ Entitlements Act is reported as 106 days while the target is 75 days—a 40 per cent increase over target time. The mean time taken to process primary injury claims under the Safety, Rehabilitation and Compensation Act has ballooned from 122 days in 2004-05 to 181 days in 2005-06—a 48 per cent increase since 2004-05. The mean time taken to process primary injury claims under the Military Rehabilitation and Compensation Act has blown out from 90
days to 146 days—up some 62 per cent since 2004-05. The time taken to process new impairment claims under the Military Rehabilitation and Compensation Act has dramatically ballooned from 26 days to 130 days—up some 400 per cent since 2004-05, admittedly on small numbers, but it is nonetheless a worrying trend.

These issues were raised with the department at Senate estimates the other week. The fact is (a) they were confirmed and (b) what became clear from the answers from the head of the department is that we have actually seen a cutback in resources being dedicated to these parts of the department. That is clearly having an impact on the services provided to veterans and the time taken to consider their claims.

Resourcing provided in this area is part of an overall government policy, which, as I understand it, relates to a formula. The number of claims globally are dropping down, and that leads to a cut in the resources made available to DVA to be able to do their jobs. The problem with that is that, if you cut those resources and the result is a situation where you increase massively the time taken for processing of claims, you actually, I think, undermine the fairness and equity of the system.

Many of the people involved in these claims are in a very damaged state. They are frail and they need our support and assistance. We have already had a range of claims and concerns raised about the way that government handles claims processing in terms of investigations. There have been allegations about the use of companies that effectively act as private investigators to address claims and consider the details of claims made by veterans. There have been legitimate concerns raised about aspects of that which need to be properly investigated. Certainly what we can say is this: the sorts of figures that are coming out of the annual report of the Department of Veterans’ Affairs regarding the time taken to process veterans’ claims are absolutely unacceptable. This has a real impact on the wellbeing, frankly, of many of the veterans involved because when it takes longer for those things to be considered we can have no doubt that the concerns and the anxiety brought to bear for people who often have been through some quite terrible circumstances will be quite serious. Therefore, the department and the government have to address this issue.

Having blow-outs of as much as 40 per cent in the target times, or 62 per cent over the last couple of years—blow-outs of time from 90 days to 146 or from 26 days to 130—is just not acceptable. Veterans and those who are covered by DVA have given much to our country. They have served in circumstances that have often been quite horrific. They have dealt with tough jobs. They have done it with courage; they have done it with professionalism. When they are down and out, as many of the people that DVA deal with are, we have to do better. We cannot allow a situation where claims such as these take as long as it is now taking for them to be considered. The government has to get on top of this. If there is a situation where resourcing has been cut back as a result of some bureaucratic formula for the provision of resourcing in the department, that formula has to be reconsidered. We have to have a situation where enough resources go in to ensuring that these claims are dealt with in a reasonable period of time. There is absolutely no doubt about that. *(Time expired)*

**Water**

Mr HUNT (Flinders—Parliamentary Secretary to the Minister for the Environment and Heritage) (12.42 pm)—I rise today to highlight the work of water groups, schools and other organisations in saving water within the electorate of Flinders. In particular, I want to do this
through examining the steps taken under the recently announced community water grants. All up, 13 projects were significant recipients of community water grants within the electorate of Flinders in the list announced only this week, and nine of those projects are in primary and secondary schools. It will lead to a total saving of nine million litres of water per annum, which is our area doing its part to save water for Victoria and for Australia as a whole, and it comes about through a total federal contribution of just over $800,000. So, firstly, the principle here is very clear: that it is individual schools, bowling clubs and community groups all working together to do their bit during a period of drought in Victoria to save water. Secondly, they are doing this in a way which is going to help educate and lead to savings in the home by individuals who are involved with this because they are more conscious and aware of the water savings. Thirdly, they are doing this with the assistance of the Commonwealth. All of that is an extremely important base for these savings.

I want to identify the particular groups and recognise the work they are doing. As I mentioned, there are nine schools that have been successful. Penbank Primary School in Moorooduc will be saving 204,000 litres a year through harvesting rainwater and applying that to their bathrooms. The Woodleigh School in Baxter will be saving 177,000 litres a year by installing constant flow control valves, timed bubblers, dual flush toilets and waterless urinals. Somerville Primary School will be saving 433,000 litres a year through a combination of upgrading and installing dual flush toilets and flow devices and also collecting and harvesting water. A similar practice at Red Hill Consolidated Primary will save 150,000 litres a year. The Somers School Camp will save 2,100,000 litres per year, and I think that that is extremely important.

The DEPUTY SPEAKER (Hon. IR Causley)—Order! A division has been called in the House. Does the member for Flinders want to continue?

Mr HUNT—I will finish immediately, Mr Deputy Speaker. Western Port Secondary College will save 920,000 litres a year, Hastings Westpark Primary School will save 330,000 litres a year, Eastbourne Primary School will save 650,000 litres a year and Sorrento Primary School will save half a million litres a year. Combine that with the work of the Dromana Bowls Club, the Somerville Bowling Club, the Candowie/Lance Creek Catchment Management Group and the Peninsula and Western Port Biosphere. It is a great result.

Question agreed to.

Main Committee adjourned at 12.46 pm
QUESTIONS IN WRITING

Ex-Gratia Payments
(Question No. 3568)

Mr Danby asked the Minister Assisting the Minister for Defence, in writing, on 24 May 2006:

(1) When will the Government determine its policy on ex-gratia payments to the F111 maintenance workers from the No. 482 Maintenance, and Nos 1 and 6 Squadrons so that the personnel can be compensated for the injuries and illnesses they have incurred as a result of working on the F111 Deseal/Reseal Program and when will payments be made.

(2) Will all personnel from the No. 482 Maintenance, and Nos 1 and 6 Squadrons receive ex-gratia payments or compensation from any other source for their injuries and illnesses.

(3) Does the Government intend to include personnel who were not directly engaged on the F111 Deseal/Reseal Program but who have worked in the F111 Deseal/Reseal Program work area in the eligibility criteria for ex-gratia payments if they develop related injuries and illnesses at a later date.

(4) In determining the sums of the ex-gratia payments, does the Government intend to take into consideration (a) the legal expenses claimants have incurred in pursuing their claims, (b) the value of the superannuation a claimant is entitled to receive, and (c) the expected future cost of (i) ongoing medical care and (ii) modifications to vehicles and residences to accommodate disabilities.

(5) Does the Government intend to offer ongoing payments based on each claimant’s salary; if so, what arrangements will apply to the reversion of these payments to a spouse/partner and dependent children on the death of the claimant.

(6) Does the Government intend to offer the servicemen of No. 482 Maintenance, and Nos 1 and 6 Squadrons a choice between a lump sum and ongoing payments.

(7) Does the Government intend to include a confidentiality clause in the settlements for each claimant; if so, will it continue to apply if the government of the day does not honour the terms of agreement signed off by the Minister.

(8) Were funds allocated in the 2006-2007 budget for compensation to the members of No. 482 Maintenance, and Nos 1 and 6 Squadrons; if so, what sum; if not, why not.

(9) What sum has been allocated (a) in total and (b) on average for each claim to defend claims made by members of No. 482 Maintenance, and Nos 1 and 6 Squadrons.

(10) When does he expect the issues for No. 482 Maintenance, and Nos 1 and 6 Squadrons to be finally resolved.

Mr Billson—The answer to the honourable member’s question is as follows:

(1) to (10) Please refer to House of Representatives Question on Notice 3736.

Ex-Gratia Payments
(Question No. 3736)

Mr Danby asked the Minister for Veterans’ Affairs, in writing, on 20 June 2006:

(1) When will the Departments of Veterans’ Affairs and Defence create a new ex-gratia payment system to recognise the F111 maintenance workers from Nos 482 Maintenance, 1 and 6 Squadrons so they can become eligible for workers compensation.

(2) When will the personnel from the Nos 482 Maintenance, 1 and 6 Squadrons receive an ex-gratia payment or workers compensation settlement.
(3) Will all personnel from the Nos 482 Maintenance, 1 and 6 Squadrons receive the ex-gratia payment or any compensation for their injuries and illnesses.

(4) Will currently healthy personnel not directly involved with the F111 Deseal Reseal program be eligible for the ex-gratia payment or workers compensation scheme in future years, if it can be proved that their illnesses or injuries are as a result of working in the F111 Deseal Reseal work area.

(5) When determining the amount of any ex-gratia payment, will the Departments of Veterans’ Affairs and Defence (a) consider the legal costs incurred by claimants in pursuing their cases, (b) consider the amount of superannuation to which the claimant is entitled, (c) include an additional provision for ongoing medical care for existing illnesses and/or injury for the term of a claimant’s natural life, and payment for any necessary lifestyle adjustments made by claimants to accommodate their illnesses, such as modifications to residences or vehicles.

(6) In formulating a compensation settlement for the serviceman of Nos 482 Maintenance, 1 and 6 Squadrons (a) will the Government offer the option of a lump sum or ongoing payment based on the serviceman’s existing wage; if so, will the rights and terms of an ongoing payment be transferred to a claimant’s spouse upon the claimant’s death, irrespective of cause and (b) if the settlement for each claimant includes a confidentiality clause, will provision be made for the confidentiality to be broken, if and when the Government of the day does not honour the terms of agreement approved by the current Minister.

(7) Why did the 2006 Budget make no provision for compensation to members of Nos 482 Maintenance, 1 and 6 Squadrons.

(8) Why does his Department’s budget provide approximately $1 million per claim for defence of each claim made by members of Nos 482 Maintenance, 1 and 6 Squadrons.

(9) When will the compensation issues for Nos 482 Maintenance, 1 and 6 Squadrons be finalised.

Mr Billson—The answer to the honourable member’s question is as follows:

(1) The definition of a Deseal/Reseal participant has been agreed to by the Government and there is no intention of amending it. No consideration is being given to the creation of an additional scheme for ex-gratia payment to include workers who undertook activities outside the formal Deseal/Reseal programs.

These workers currently have coverage for workers compensation. Compensation claims are determined not only on the basis of the claimed link to Deseal/Reseal work, but also based on the person’s general service work history. For instance, if a person claims that the Deseal/Reseal environment caused their condition then their claim can be considered in two ways:

- the first is under the specific Deseal/Reseal provisions under subsection 7(2) of the Safety, Rehabilitation Compensation Act 1988 (SRCA); and

- the second is based on their general work history under the SRCA and/or Veterans’ Entitlements Act 1986 (VEA).

From September 2001, when the Deseal/Reseal Compensation Team was established, any claims which could be accepted based on a link between the claimant’s general service and their claimed condition under either the SRCA and/or the VEA have already been accepted.

(2) and (3) Generally, personnel from Squadrons 482, 1 and 6 do not satisfy the definition of a F-111 Deseal/Reseal participant. Therefore, they will not be entitled to an ex-gratia lump sum payment (as distinct from compensation). However, some personnel from these squadrons who were assigned to the core Deseal/Reseal programs have applied meet the eligibility criteria and have received the ex-gratia lump sum payment.
All military personnel are entitled to claim compensation benefits under the VEA, and the SRCA. Eligibility for these benefits is independent of the F-111 Deseal/Reseal Lump Sum scheme. These benefits are associated with a specific injury or illness arising from employment. Claims for compensation are processed as they are received and are determined on their merits and must show a causal connection between a diagnosed injury or illness and employment.

(4) If illness or diseases develop, claims for compensation can be lodged at any time in the future under either the SRCA or the VEA or both, as an individual’s service allows.

(5) (a) No;
(b) No; and
(c) No.

(6) (a) No; and
(b) No. There is no confidentiality clause.

(7) Because members of these Squadrons do not fall within the definition of people eligible for ex-gratia payments and therefore could not receive payments.

(8) This is a factually incorrect statement and there is no basis for the false and misleading premise of the question. No provision was made for the defence of specific categories of claims.

(9) 149 persons have been identified as 482, 1 or 6 Squadron members who have submitted compensation claims under the SRCA. 82 have already been processed and had some conditions determined or the claim completely finalised. The balance of these claims have had no determinations made on their conditions at this stage.

Future claims will be processed in the usual manner as they are received.

Veterans: Entitlements
(Question Nos 3805 and 3806)

Mr Windsor asked the Minister for Veterans’ Affairs, in writing, on 8 August 2006:

Is he aware of concerns within the veteran community that the indexation system used to determine the rate of the Totally and Permanently Incapacitated (TPI) pension has resulted in a reduction of $80 per fortnight for TPI pension recipients over the past six years; if so, what is the Government doing to address this apparent inequity for Australia’s TPI veterans.

Mr Billson—The answer to the honourable member’s question is as follows:

I am aware that there have been concerns about the indexation of the T&PI pension, particularly that from March 1998 it should have been indexed with reference to Male Total average Weekly Earnings (MTAWE).

Over recent years the Government has carefully considered both the adequacy of the T&PI pension and its means of indexation to ensure that it is fulfilling its intended purpose and supports those veterans most in need.

While the Australian Government’s support available to T&PI veterans and their partners has more or less maintained relativity with average wages for the past 20 years, in response to the Clarke Report the Government changed its means of indexation.

The T&PI pension is indexed twice yearly and is made up of two components – the General Rate and the Above General Rate disability pension. Since 20 March 2004, the Above General Rate component has been indexed with reference to both the Consumer Price Index (CPI) and (MTAWE), in the same way as the maximum basic rate of service pension. This ensures that the Above General Rate component, which is only received by our most severely impaired veterans, is aligned with both CPI and MTAWE.
The General Rate component of the T&PI pension, paid as compensation for pain and suffering, continues to be indexed in line with increases in the CPI to ensure that its value is not eroded by inflation. This indexation method is consistent with the indexation arrangements for most workers compensation payments.

Another measure introduced as part of the Government’s response to the Clarke Report is the introduction of the Defence Force Income Support Allowance (DFISA). The new allowance, introduced in September 2004, effectively exempts my Department’s disability pension from the income test at Centrelink.

Following the introduction of DFISA, all T&PI veterans and their partners are now treated equitably, regardless of whether they receive their income support payments from my Department or Centrelink. This means that veterans and their partners in similar circumstances receive the same amount of Government assistance irrespective of whether they receive their income support under social security law or Veterans’ Affairs legislation.

The Government continues to monitor the situation and examine views raised by the ex-service community to ensure that the current level of T&PI pension and its indexation arrangements are satisfactory.

Veterans: Entitlements
(Question No. 3813)

Mr Georganas asked the Minister for Veterans’ Affairs, in writing, on 8 August 2006:

(1) What methods and departmental systems used to maintain accurate records of Department of Veterans’ Affairs pension recipients’ income, assets and eligibility for any benefit have been discontinued since 1996.

(2) In respect of discontinued systems referred to in part (1), (a) what were the reasons for discontinuation, (b) what were the annual cost savings of discontinuation and (c) what has been the value of any increase in departmental expenditure on investigations of overpayments and repayment of benefits for each year since discontinuation.

Mr Billson—The answer to the honourable member’s question is as follows:

(1) None.

(2) (a), (b), and (c) Not applicable.

Veterans: Entitlements
(Question No. 3815)

Mr Jenkins asked the Minister for Veterans’ Affairs, in writing, on 8 August 2006:

(1) What funding, if any, is provided by the Commonwealth Department of Veterans’ Affairs to the Victorian branch of the Totally and Permanently Incapacitated (TPI) Disabled Soldiers Association of Victoria Inc.

(2) In respect of the funding referred to in part (1), (a) for what purpose is it provided and (b) what conditions does the Commonwealth place on the distribution of funds to members of the TPI Disabled Soldiers Association of Victoria Inc.

(3) Is the TPI Disabled Soldiers Association of Victoria Inc able to extend the provision of those services provided as a result of funding from the Commonwealth Department of Veterans’ Affairs to non-members of the Association or non-TPI pension recipients; if not, why not.

Mr Billson—The answer to the honourable member’s question is as follows:

(1) There has been no funding provided during the last financial year. TPI Disabled Soldiers Association of Victoria Inc may be eligible for funding under the following DVA grants programs:

- Saluting Their Service commemorations grants;
• Building Excellence in Support and Training (BEST); and
• Veteran & Community (V&C) Grants.

(2) (a) The Saluting Their Service commemorations program provides grants for projects that are directly commemorative of Australia’s servicemen and women involved in war, conflict and peacekeeping operations. It is designed to leave a lasting legacy of ongoing commemoration and understanding by the Australian community.

BEST provides support and resources to ex-service organisation practitioners for pensions and welfare work to assist veterans, past and present members of the Australian Defence Forces and their dependants. A major objective of the program is to ensure high quality claims and appeals assistance by ex-service organisation practitioners that in turn will assist the Department of Veterans’ Affairs with timely and appropriate processing.

V&C Grants aim to maintain and improve the independence and quality of life of members of the veteran community by providing funding for projects that support activities and services that sustain and/or enhance their health and well-being.

(b) While individuals may apply for STS grants funding, they are not eligible to apply for BEST or V&C Grants funding. Organisations such as the TPI Disabled Soldiers Association of Victoria Inc are eligible to apply for grants funding under all three programs. Grants funding provided to an organisation is not for distribution to individual members of that organisation, the conditions for expenditure of grant funding is contained in a grant agreement.

(3) The services provided through BEST funding are available to non-members of the Association and non-TPI pension recipients.

Services that may be available through a project funded by a Veteran & Community Grant are generally to benefit the entire veteran community and can also benefit the wider community.

Airport Security
(Question No. 3818)

Mr Murphy asked the Minister for Transport and Regional Services, in writing, on 8 August 2006:

(1) Further to his reply to part (2) of question No. 1320 (Hansard, 7 February 2006, page 125), did he or any member of his staff take any action between 11 May 2005 and 1 June 2005 to confirm that CCTV cameras had been found to be out of focus or pointing to the wall in the baggage make-up area of Sydney International Airport; if so, on what date and what was the nature of such action; if not, why not.

(2) On what date was he first advised that CCTV cameras had been found to be out of focus or pointing to the wall in the baggage make-up area of Sydney International Airport.

(3) Who provided the advice referred to in part (2) and what was the nature of the advice.

(4) On what date did he take action in relation to the advice referred to in part (2) and what are the full details of that action.

Mr Vaile—The answer to the honourable member’s question is as follows:

(1) I do not have any specific knowledge of action concerning CCTV cameras at Sydney Airport between 11 May 2005 and 1 June 2005 taken by the former Minister for Transport and Regional Services, or a member of his staff.

(2) (3) and (4) I am not aware of the former Minister for Transport and Regional Services being informed about this matter.
Airport Security
(Question No. 3821)

Mr Murphy asked the Minister for Transport and Regional Services, in writing, on 8 August 2006:

(1) Since 2004, has Sydney Airport Corporation Limited (SACL) reported to him any (a) security incident or (b) unlawful interference with aviation at (i) Sydney International Airport or (ii) Sydney Domestic Airport; if so, how many and what are the details; if not, why not.

(2) Have any security incidents or unlawful interference with aviation at (a) Sydney International Airport or (b) Sydney Domestic Airport been reported to him since 2004 by an agency other than SACL; if so, how many incidents have been reported and what are the details; if not, why not.

Mr Vaile—The answer to the honourable member’s question is as follows:

(1) and (2) The Department of Transport and Regional Services, Office of Transport Security Operations Centre receives aviation security reports. These reports range in seriousness from information only reports through to those of a more serious nature.

Specific details of the nature of the incidents are of a security sensitive nature and are not public information as they may be used to analyse Sydney Airport’s security procedures and measures.

Consultancy Services
(Question No. 3913)

Mr Bowen asked the Minister for Health and Ageing, in writing, on 14 August 2006:

Has the Minister’s office, or any department or agency in the Minister’s portfolio, engaged any consultant or other form of external assistance in the preparation of any speech to be made by the Minister in the financial year 2005-06.

Mr Abbott—The answer to the honourable member’s question is as follows:

No.

Consultancy Services
(Question No. 3925)

Mr Bowen asked the Minister for Veterans’ Affairs, in writing, on 14 August 2006:

Has the Minister’s Office, or any department or agency in the Minister’s portfolio, engaged any consultant or other form of external assistance in the preparation of any speech to be made by the Minister in the financial year 2005-06.

Mr Billson—The answer to the honourable member’s question is as follows:

No.

Veterans: Repatriation Pharmaceutical Benefits Scheme Prescriptions
(Question No. 3934)

Ms Owens asked the Minister for Veterans’ Affairs, in writing, on 15 August 2006:

(1) How many Repatriation Pharmaceutical Benefits Scheme (RPBS) prescriptions were filled for Department of Veterans’ Affairs (DVA) treatment card holders during (a) 2003-2004, (b) 2004-2005 and (c) 2005-2006 in (i) New South Wales and (ii) the federal electorate of Parramatta.

(2) How many RPBS prescriptions were filled for DVA treatment card holders during (a) 2003-2004, (b) 2004-2005 and (c) 2005-2006 in the postcode area (i) 2115, (ii) 2116, (iii) 2117, (iv) 2118, (v) 2142, (vi) 2145, (vii) 2146, (viii) 2150, (ix) 2151, (x) 2152, and (xi) 2153.
Mr Billson—The answer to the honourable member’s question is as follows:

(1) (a) (b) (c)
  (i) New South Wales 5,358,465 5,376,077 5,155,112
  (ii) Parramatta electorate 142,815 141,637 136,449

(2) (a) (b) (c)
  (i) 2115 7,421 6,835 6,422
  (ii) 2116 4,878 4,670 4,234
  (iii) 2117 13,190 11,818 10,974
  (iv) 2118 12,152 12,004 11,287
  (v) 2142 8,755 8,667 7,841
  (vi) 2145 37,819 36,106 34,175
  (vii) 2146 11,031 11,818 11,872
  (viii) 2150 6,695 7,079 5,826
  (ix) 2151 14,162 14,390 14,479
  (x) 2152 6,377 6,231 6,152
  (xi) 2153 20,335 21,605 23,187

Mr David Hicks
(Question No. 3939)

Ms Roxon asked the Attorney-General, in writing, on 15 August 2006:

(1) In light of the US Supreme Court decision in *Hamden v Rumsfeld*, which struck down the military commissions proposed for Guantanamo Bay detainees as unauthorised under US federal law, what timeframe does the Government consider reasonable for the fair and timely trial of Australian citizen Mr David Hicks.

(2) What is the latest information, or estimate, on when Mr Hicks’ trial will (a) commence and (b) be completed.

(3) What period of time does the Government consider unreasonable for the detention of an accused without trial.

(4) What are the details of the US Government’s revised plans for the trial of Guantanamo Bay detainees such as Mr Hicks.

(5) Will the new system referred to in part (4) comply with the Geneva Conventions and other established legal principles.

(6) What assurances has he sought to ensure the US Government’s revised plans offer Mr Hicks due process before the law; for example, in regards to proper rules of evidence and independent means of appeal; and what response has he received.

(7) What assurances has he sought from the US Government regarding the conditions in which Mr Hicks is being detained; most particularly whether he has been subject to solitary confinement or any form of torture; and what response he has received.

(8) What attempts have been made by Australian consular officials to ascertain (a) the health of Mr Hicks and (b) the conditions in which he is being held.

Mr Ruddock—The answer to the honourable member’s question is as follows:

(1) The Australian Government’s view is that any trial of Mr Hicks should happen as quickly as possible. I have re-iterated this in conversations with US Attorney-General Gonzales.
(2) There is no set date for Mr Hicks’ trial at this stage. Mr Hicks has not yet been formally charged under the new Act. A US Defense department spokesperson is reported as saying said that trials are not expected until 2007.

(3) The length of detention of an accused in custody prior to trial differs in individual cases. The Government has always maintained that Mr Hicks’ case should be resolved as quickly as possible and that Mr Hicks should face trial to answer the allegations against him. I reiterated my concerns in relation to the length of time this has taken in discussions with Attorney-General Gonzales in September 2006. However, it is the right of respective parties to test decisions in the courts and this is what has been happening in the US over the last couple of years.

(4) See above answer to Question (2). The United States Congress passed the Military Commissions Act of 2006 on 29 September 2006; the Act was signed into law by President Bush on 17 October 2006. The Act provides an alternative method for trying detainees held at Guantanamo Bay. The Act authorises the President to establish military commissions, establishes the jurisdiction of the commissions over ‘unlawful enemy combatants’, and sets out procedures for the treatment, prosecution and conviction of suspected terrorists. Additionally, regulations detailing military commission procedures are to be formulated within 90 days of the enactment of the Act.

(5) The Act incorporates a number of fundamental due process safeguards for defendants, including a right to be present throughout the trial with limited exceptions, a right to see all the evidence against an accused, a right to cross-examine prosecution witnesses, a presumption of innocence and an extensive appeals process up to the Supreme Court. Whether or not the Act complies with the Geneva Convention and other legal principles will ultimately be a matter for the United States government and the courts.

(6) I have held several discussions with US Attorney-General Gonzales, in which I have emphasised the Australian Government’s desire to see Mr Hicks’ case dealt with expeditiously. I also reiterated the Government’s expectation that additional safeguards negotiated previously to apply to Mr Hicks’ case will apply to any new military commission trial of Mr Hicks. A number of issues which were the focus of those safeguards have been taken up in the new legislation. The additional safeguards previously negotiated included:

- Based upon the specific facts of his case, the United States has assured Australia that it will not seek the death penalty in Mr Hicks’ case.
- Australia and the United States agreed to work towards putting arrangements in place to transfer Mr Hicks to Australia, if convicted, to serve any penal sentence in Australia in accordance with Australian and United States laws.
- Conversations between Mr Hicks and his lawyers will not be monitored by the United States.
- Subject to any necessary security restrictions, Mr Hicks’ trial will be open, the media will be present and Australian officials may observe the proceedings.
- The Australian Government may make submissions to any review panel which would review Mr Hicks’ military commission trial.
- Should Mr Hicks choose to retain an Australian lawyer with appropriate security clearances as a consultant to his legal team, that person may have direct face-to-face communications with their client.
- Mr Hicks may talk to his family via telephone and two family members are permitted to attend his trial.

Attorney-General Gonzales has given an undertaking that the assurances previously negotiated will be honoured. With respect to rules of evidence and rights of appeal, see (5) above.
(7) At the Australian Government’s request, there have been two investigations into allegations of mistreatment of Mr Hicks, neither of which revealed any evidence of abuse. A United States Department of Defense investigation concluded in August 2004 that there was no evidence to support the allegations. The most recent report by the United States Naval Criminal Investigative Service (NCIS) was provided to the Australian Government in July 2005. NCIS found no information that substantiated or corroborated the allegations of abuse.

Mr Hicks is not held in solitary confinement. Conditions for prisoners at Guantanamo Bay are equivalent to a maximum security facility in the US and his conditions are similar to those who are in custody awaiting trial for terrorism offences in Australia. Earlier this year, Mr Hicks, together with a number of other detainees, was transferred to a newly completed facility in Guantanamo Bay. Mr Hicks is being held in the general block area of this facility in a single occupancy cell. Cells in the general block area have windows providing natural light. Mr Hicks continues to have access to an exercise facility in a group area. He is able to communicate with the other detainees during exercise periods and between cells.

(8) Australian officials have visited Mr Hicks at Guantanamo Bay on 17 occasions. On each occasion, Mr Hicks’ welfare has been assessed. No evidence of abuse or maltreatment has been found by Australian officials. The last consular visit was made to Mr Hicks on 27 September 2006. The Consul-General advised that Mr Hicks looked well but that Mr Hicks chose not to speak to the Consul. We are aware that the International Committee of the Red Cross (ICRC) met with Mr Hicks recently at Guantanamo Bay. We have not been advised of the content of the discussions between Mr Hicks and the ICRC. The ICRC would normally take up prisoner concerns with the camp authorities. The Australian Government will continue to monitor Mr Hicks’ welfare closely, and fulfill our consular responsibilities to Mr Hicks as an Australian citizen. With regard to the conditions in which Mr Hicks is being held, see (7) above.

Mr David Hicks
(Question No. 3963)

Mr McMullan asked the Attorney-General, in writing, on 16 August 2006:

(1) What advice has the Government received that the ongoing detention of Australian David Hicks in Guantanamo Bay is legal and from what source was this advice obtained.

(2) What advice has the Government received in respect of claims such as that made by Major Michael Mori on the Enough Rope program on 14 August 2006, who said, in relation to David Hicks: “I believe he’s been mistreated and physically assaulted, and, through my investigation, I’ve confirmed it”.

(3) Have the claims referred to in part (2) been investigated; if so, has the Government made any representations to the United States Administration about the treatment of David Hicks.

(4) Is David Hicks still in solitary confinement, as claimed by Major Mori; if so, (a) why and (b) when will he be released from solitary confinement.

(5) Has the Government made any representations to the United States Administration about the length of time David Hicks will spend in solitary confinement; if so, what has been the outcome of those representations; if not, why not.

(6) In respect of the Prime Minister’s statement that David Hicks has “committed more serious offences than most”; what are those offences.

(7) What advice had the Government previously received confirming that the American military tribunal process was legal under international law.
(8) In respect of his statement of 29 July 2006, that he was hopeful that a new trial for David Hicks would be set up by the end of the year, (a) what did he mean by "a new trial" and (b) if nothing has been done by the end of the year, what action will he take.

Mr Ruddock—The answer to the honourable member’s question is as follows:

(1) Consistent with longstanding practice, the Government will not disclose legal advice it has received on the legality of the detention of Mr Hicks.

(2) At the request of the Australian Government, there have been two investigations into allegations of physical abuse. A US Department of Defense investigation concluded in August 2004 that there was no evidence to support allegations made by Mr Hicks. The most recent report by the US Naval Criminal Investigative Service (NCIS) was provided to the government on 15 July 2005. The NCIS report was extensive and addressed all allegations of physical abuse that had been raised by Mr Hicks. The NCIS concluded there was no evidence to substantiate abuse allegations. Australian officials have met with Mr Hicks on 17 occasions at Guantanamo Bay and have seen no evidence of abuse.

(3) Refer to (2) above.

(4) Reports that Mr Hicks is being held in solitary confinement are incorrect. Mr Hicks is currently being held in a single occupancy cell in the general block area of a newly completed facility in Guantanamo Bay. Cells in the general block area have windows providing natural light. Mr Hicks continues to have access to exercise in group areas and he is able to communicate with other detainees during exercise periods and between cells.

(5) Refer to (4) above.

(6) The Prime Minister stated that “the information we have been given…is that [David Hicks] has, amongst those that are held at Guantanamo Bay, committed more serious offences than most”. Under the previous military commission system, Mr Hicks was charged with conspiracy to commit war crimes, attempted murder by an unprivileged belligerent, and aiding the enemy. These charges relate to Mr Hicks’ alleged involvement with al-Qa’ida and activities in Afghanistan. Mr Hicks has not yet been formally charged under the new Military Commissions Act signed into law by President Bush on 17 October 2006.

(7) Consistent with longstanding practice, the Government will not disclose legal advice it has received on the legality of the American military tribunal process under international law.

(8) (a) The statement in relation to a ‘new trial’ related to the Government’s expectation that, subsequent to the Supreme Court’s decision in Hamdan v Rumsfeld, the United States Administration would work towards putting in place a new system of trying detainees which complies with the court’s decision. (b) There is no set date for Mr Hicks’ trial at this stage. A US Defense department spokesperson is reported as saying that trials are not expected until 2007. The Australian Government’s view is that any trial of Mr Hicks should happen as quickly as possible. I have re-iterated this in conversations with US Attorney-General Gonzales.

Organ Harvesting
(Question No. 3974)

Mr Danby asked the Minister for Health and Ageing, in writing, on 4 September 2006:

(1) Has he seen the document titled Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China by Mr David Matas and former Canadian Cabinet Minister, Mr David Kilgour.

(2) What information does he have regarding allegations made in the report that China is engaged in the systematic murder of imprisoned Falun Gong practitioners for the purpose of harvesting kidneys, livers, corneas and other organs, for profit.
Mr Abbott—The answer to the honourable member’s question is as follows:

(1) No. However, I am aware of the main allegations that it makes.

(2) I have no specific information regarding the allegations.

(3) and (4) Australian Government officials raised these reported allegations with Chinese Government officials as part of the Australia-China Human Rights dialogue in July 2006. This included a suggestion to China that they investigate the allegations. Therefore, I will not be discussing the matter with the Chinese Minister for Health.

(5) No, given the matter has been raised directly with the Chinese Government.

**Designated Districts of Workforce Shortage**

(Question No. 3995)

Ms Kate Ellis asked the Minister for Health and Ageing, in writing, on 4 September 2006:

(1) Has the department received requests from the Australian medical community to produce State-wide, or nation-wide, maps of designated districts of workforce shortage.

(2) Does he support the view of the South Australian Division of General Practice that the production of such maps would be extremely beneficial to overseas trained doctors considering options for settlement, as well as to the broader Australian medical community.

(3) How many overseas trained doctors have been granted section 19AB exemptions to work in surgeries situated in inner metropolitan areas across Australia.

(4) What estimation has he made of the effectiveness of the current system for determining whether a surgery falls within a district of workforce shortage.

(5) How many South Australian surgeries have closed over the past 12 months.

(6) Of the surgeries identified in part (5), (a) how many were based in inner metropolitan areas and (b) had any lodged applications for section 19AB exemptions with his department prior to closure.

(7) Will he confirm the accuracy of advice given to one of my constituents by a senior officer within his department to the effect that since 1977, there has been a general policy that overseas trained doctors would not be granted an exemption under section 19AB of the Health Insurance Act 1973 in inner metropolitan areas.

(8) Does section 19AB of the Act, which requires that the Minister must determine, in writing, the guidelines that apply to the granting of exemptions for overseas trained doctors; if so how does informal Government policy of the kind accord with this section.

Mr Abbott—The answer to the honourable member’s question is as follows:

(1) The Department has received requests from the Australian medical community to produce state-wide, or nation-wide, maps of designated districts of workforce shortage. For the reasons stated in (2) these maps are not currently available. Overseas trained doctors and practices are able to enquire on the Department’s website (searchable database) as to whether a locality is a district of workforce shortage. Search criteria include state/territory and town, suburb or business centre.

(2) Although a ‘visual’ indication of designated districts of workforce shortage, such as maps, could be helpful in determining options for settlement, as well as to the broader Australian medical commu-
The statistics that underlie the determination of districts of workforce shortage are updated quarterly, which would necessitate regularly updating such maps. This would reduce their usefulness and currency.

(3) The only overseas trained general practitioners, granted section 19AB exemptions to work in inner metropolitan areas, are those who have successfully demonstrated that exceptional individual circumstances exist, or those working in after hours clinics. Almost all inner metropolitan section 19AB exemptions relate to overseas trained doctors who are specialists. The current number of these specialists across Australia is 877.

(4) The current system for determining whether a surgery falls within a district of workforce shortage is effective as it is based on doctor and population statistics that are objective and quantifiable. These are derived from robust data collections and are applied on a nationally consistent basis. The validity of statistics utilised to determine districts of workforce shortage is further enhanced through their updating, on a quarterly basis, ensuring that any fluctuations in population access to doctors is detected. This increases the scope for surgeries to accurately assess whether they are eligible to employ overseas trained doctors in the first instance. In terms of outcomes, the section 19AB exemption measure has been effective, as demonstrated by the fact that over the period 1995-96 to 2004-05, rural general practitioners have increased by over 20 per cent in full-time workload equivalent terms, compared with an increase for urban general practitioners of 2.8 per cent over the same period.

(5) and (6) (a) and (b). Over the financial year 2005-06, 9 inner metropolitan general practices in South Australia closed (note: figure based on Practice Incentive Payment (PIP) accredited practices which comprise the majority of practices). None of these practices applied for a section 19AB exemption.

(7) This is correct insofar that section 19AB of the Health Insurance Act 1973 (the Act), introduced on 1 January 1997 enables the Government to restrict employment of overseas trained doctors to private practice in rural, remote and outer metropolitan districts of workforce shortage. As noted above, if exceptional circumstances exist, discretion may be exercised to allow overseas trained general practitioners to work in inner metropolitan areas.

(8) The assertion that “informal policy” considerations are part of the deliberations for section 19AB exemptions is incorrect. The legislation and the guidelines do however, provide scope for a discretionary element in the determination of these matters. The primary consideration on which section 19AB exemption decisions are based is that applicants must work in a district of workforce shortage. The section 19AB guidelines do however, allow additional factors to be considered in reaching a section 19AB decision.

**Crosby/Textor Contracts**

*Question No. 4043*

Mr Kelvin Thomson asked the Minister for Veterans’ Affairs, in writing, on 4 September 2006:

1. What contracts, if any, were granted to Crosby/Textor by the Minister, or by any departments or agencies in the Minister’s portfolio, in (a) 2004-05 and (b) 2005-06.

2. What contracts, if any, have been awarded to Crosby/Textor for (a) 2006-07 or (b) 2007-08.

3. In respect of each contract referred to in Parts (1) and (2), (a) what was, or is, the cost and (b) what work was, or will be, carried out by Crosby/Textor pursuant to that contract.

Mr Billson—The answer to the honourable member’s question is as follows:

1. (a) Nil and (b) Nil.
(2) (a) Nil and (b) Nil.
(3) (a) Not applicable and (b) Not applicable.

KPMG Contracts
(Question No. 4066)

Mr Kelvin Thomson asked the Minister for Veterans’ Affairs, in writing, on 4 September 2006:
(1) What contracts have been awarded to KPMG by departments or agencies within the Minister’s portfolio for the financial years (a) 2004-05, (b) 2005-06 and (c) 2006-07.
(2) What is the cost of each contract identified in Part (1).

Mr Billson—the answer to the honourable member’s question is as follows:
(1) (a), (b) and (c) Internal audit and other services
(2) $5,486,800.00 (gazetted for three-year contract)
   (a) $870,000 (2004/2005 actual)
   (b) $1,883,000 (2005/2006 actual)
   (c) Not applicable

Vocational and Technical Education: Funding
(Question No. 4114)

Ms Macklin asked the Minister for Vocational and Technical Education, in writing, on 6 September 2006:
(1) What programs are funded under the ‘Vocational and Technical Education—National Programmes’ line of Output 2.1 in the Education Science and Training portfolio budget.
(2) For each of the programs identified in Part (1), what is its budget for:
   (a) the current Budget year and
   (b) for the forward estimates period.

Mr Hardgrave—the answer to the honourable member’s question is as follows:
(1) The VTE National Programme provides funding for four elements:
   Support for Industry;
   Joint Group Training;
   Equity and Innovation Funding; and
   National System Support
(2) Funding decisions for 2006-07 and into the future have not been determined.
   The forward estimates for VTE National Programmes are:
   
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QUESTIONS IN WRITING
Oil for Food Program
(Question No. 4181)

Mr Kelvin Thomson asked the Minister for Foreign Affairs, in writing, on 12 September 2006:

(1) Can he confirm that the Inquiry into certain Australian companies in relation to the UN Oil-for-Food Programme (Cole Inquiry) was established on 10 November 2005.

(2) Can he confirm that the Cole Inquiry is ongoing.

(3) Further to his response to question Nos. 3417, 3418 and 3419 (Hansard, 22 June 2006, pages 135-136), can he confirm that he replied: “It would not be appropriate to answer questions relating to the Inquiry into certain Australian companies in relation to the UN Oil-for-Food Programme while the Inquiry is underway.”

(4) Further to his responses to oral questions given on 16 and 17 August 2006 (Hansard, 16 August 2006, page 54 and 17 August 2006, page 71), will he explain the rationale upon which he was able to provide fulsome answers to questions relating to the Oil-for-Food Programme on that occasion.

(5) Is he able to apply the same rationale to provide additional and more detailed responses to question Nos. 3417, 3418 and 3419; if so, will he do so.

Mr Downer—The answer to the honourable member’s question is as follows:

(1) Yes.

(2) The Inquiry is due to hand down its report by 24 November 2006.

(3) to (5) My responses to these questions are in Hansard and a matter of public record.

Government and Non-Government Schools
(Question No. 4293)

Mr Martin Ferguson asked the Minister for Education, Science and Training, in writing, on 12 September 2006:

(1) What sum was provided to (a) government and (b) non-government schools in the postcode area (i) 3058, (ii) 3070, (iii) 3071, (iv) 3072, (v) 3073, (vi) 3078, (vii) 3083 and (viii) 3085 in the financial years 2004-2005 and 2005-2006.

(2) For the financial year (a) 2004-05 and (b) 2005-06, what was the (i) sum, (ii) location, and (iii) purpose of each grant referred to in Part (1).

(3) What sum will be provided to a (a) government and (b) non-government schools in the postcode area (i) 3058, (ii) 3070, (iii) 3071, (iv) 3072, (v) 3073, (vi) 3078, (vii) 3083 and (viii) 3085 for the 2006-07 financial year.

(4) For the financial year 2006-07, what will be the (i) sum, (ii) location, and (iii) purpose of each grant referred to in Part (3).

Ms Julie Bishop—The answer to the honourable member’s question is as follows:

(1) (a) Total Australian Government funding for government schools is not reported at the level of detail requested.

Estimated funding from Australian Government programmes that can be reported at this level for government schools in the identified postcodes is provided in the tables at Attachment A.

(b) Total Australian Government funding for non-government schools cannot be reported at the level of detail requested. Estimated funding from Australian Government programmes that can be reported at the level for non-government schools in the identified postcodes is provided at Attachment A. Each table identifies the year the funding was provided.
(2) (a) (b) (i), (ii) Details of the estimated expenditure (as appropriate) and the location of funding for
the identified postcodes for 2004, 2005, 2006 and 2007 are provided at Attachment A.

(b) (iii) The purpose of Australian Government General Recurrent Grants is to enable schools to
offer students education directed towards the achievement of the Australian Government’s pri-
orities for schooling.

The purpose of the Capital Grants Programme is to provide supplementary funding to enable
educational outcomes through support of the provision of school facilities. Capital Grants Pro-
gramme funding is supplementary to funds provided by State and Territory school authorities
and is used to provide and improve capital infrastructure.

The purpose of the Flagpole Funding Initiative is to support schools to meet the condition of
funding that every school have a functioning flagpole and fly the Australian flag as part of
their civics and citizenship education.

The Investing in Our Schools Programme is delivering much needed school infrastructure to
State and non-government schools. The Australian Government is providing $1 billion for
smaller scale projects that are additional to existing capital works programmes.

The Values Education Good Practice Schools Programme is providing funding to clusters of
schools to explore ways of improving their approaches to values education and to identify
ways of putting into practice the National Framework for Values Education in Australian
Schools.

Initiatives funded under the Australian School Innovation in Science, Technology and Mathe-
matics Project will bring schools together with industry, science organisations, universities and
others.

The Success for Boys Project is a grants programme for schools to take up professional learn-
ing modules in boys’ education.

Funding under the Aboriginal Student Support and Parent Awareness (ASSPA) programme
supported ASSPA Committees of the parents of Indigenous preschool and school students, rep-
resentatives of the Indigenous community and representatives of the school.

Indigenous education

The two current programmes under which Indigenous education funding is provided to
schools in the listed postcode areas are Supplementary Recurrent Assistance (SRA) and the
Whole of Schools Intervention Strategy (WoSI).

SRA provides per capita funding based on eligible Indigenous enrolments to education sys-
tems rather than to individual schools, except for independent schools.

The Whole of School Intervention (WoSI) Strategy comprises two elements: Parent School
Partnership Initiatives (PSPI) and Homework Centres (HWC).

The Parent School Partnerships Initiative (PSPI) focuses on the implementation of creative
approaches to improving the educational outcomes of Indigenous school students.

(3) and (4) Estimates for total Australian Government funding for 2006 and 2007 for government and
non-government schools are not maintained at the level of detail requested (see response to 1 and
2).
ATTACHMENT A

Table 1

GENERAL RECURRENT GRANTS PROGRAMME

STATE GOVERNMENT SCHOOLS

Australian Government General Recurrent Grants for State Government Schools are provided to the
State Government education authority in each State of Territory on the basis of total enrolments. The
State or Territory determines where the grants are used. Payments to individual schools are not re-
corded.

NON-GOVERNMENT SCHOOLS

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Mercy Diocesan College*</td>
<td>3058</td>
<td>3,509,238</td>
<td>4,151,285</td>
<td>4,462,572</td>
<td>4,789,546</td>
</tr>
<tr>
<td>St Bernard’s Primary School*</td>
<td>3058</td>
<td>1,031,742</td>
<td>1,098,720</td>
<td>1,168,180</td>
<td>1,239,985</td>
</tr>
<tr>
<td>St Fidelis’ Primary School*</td>
<td>3058</td>
<td>1,147,859</td>
<td>1,119,321</td>
<td>1,761,606</td>
<td>1,870,127</td>
</tr>
<tr>
<td>St Paul’s Parish Primary School*</td>
<td>3058</td>
<td>770,663</td>
<td>844,609</td>
<td>897,879</td>
<td>953,178</td>
</tr>
<tr>
<td>Australian International Academy of Education</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Antonine Sisters Maronite Catholic School</em></td>
<td>3058</td>
<td>1,309,092</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>St Joseph’s Primary School</em></td>
<td>3070</td>
<td>632,358</td>
<td>595,140</td>
<td>632,798</td>
<td>671,605</td>
</tr>
<tr>
<td><em>Santa Maria College</em></td>
<td>3070</td>
<td>4,459,013</td>
<td>4,883,130</td>
<td>5,249,366</td>
<td>5,634,294</td>
</tr>
<tr>
<td><em>Holy Spirit Primary School</em></td>
<td>3071</td>
<td>684,130</td>
<td>717,220</td>
<td>762,280</td>
<td>809,381</td>
</tr>
<tr>
<td><em>St Mary’s School</em></td>
<td>3071</td>
<td>854,238</td>
<td>881,265</td>
<td>936,817</td>
<td>994,666</td>
</tr>
<tr>
<td><em>Sacred Heart Primary School</em></td>
<td>3072</td>
<td>866,072</td>
<td>913,981</td>
<td>971,459</td>
<td>1,031,481</td>
</tr>
<tr>
<td><em>St Raphael’s Primary School</em></td>
<td>3072</td>
<td>1,094,608</td>
<td>1,140,685</td>
<td>1,212,423</td>
<td>1,287,062</td>
</tr>
<tr>
<td>*St John’s Greek Orthodox College</td>
<td>3072</td>
<td>1,844,874</td>
<td>1,810,511</td>
<td>1,882,122</td>
<td>2,010,851</td>
</tr>
<tr>
<td>East Preston Islamic College</td>
<td>3072</td>
<td>2,662,964</td>
<td>3,069,909</td>
<td>3,207,124</td>
<td>3,416,805</td>
</tr>
<tr>
<td>Samaritan Catholic College*</td>
<td>3072</td>
<td>2,315,015</td>
<td>2,127,840</td>
<td>2,758,438</td>
<td>2,960,408</td>
</tr>
<tr>
<td>Holy Name Primary School*</td>
<td>3073</td>
<td>1,360,864</td>
<td>1,497,426</td>
<td>1,592,088</td>
<td>1,690,176</td>
</tr>
<tr>
<td>St Gabriel’s School*</td>
<td>3073</td>
<td>750,694</td>
<td>811,808</td>
<td>862,757</td>
<td>916,083</td>
</tr>
<tr>
<td>St Margaret’s School*</td>
<td>3073</td>
<td>336,518</td>
<td>399,877</td>
<td>425,031</td>
<td>451,217</td>
</tr>
<tr>
<td>St Stephen’s School*</td>
<td>3073</td>
<td>340,216</td>
<td>403,216</td>
<td>428,513</td>
<td>454,900</td>
</tr>
<tr>
<td><em>St Joseph the Worker School</em></td>
<td>3073</td>
<td>1,408,938</td>
<td>1,709,086</td>
<td>1,816,913</td>
<td>1,928,527</td>
</tr>
<tr>
<td>Maharishi School of the Age of Enlightenment</td>
<td>3073</td>
<td>163,949</td>
<td>118,640</td>
<td>126,240</td>
<td>133,984</td>
</tr>
<tr>
<td>St Anthony’s School*</td>
<td>3078</td>
<td>687,828</td>
<td>778,260</td>
<td>827,224</td>
<td>878,053</td>
</tr>
<tr>
<td>Alphington Grammar School</td>
<td>3078</td>
<td>1,790,902</td>
<td>1,714,712</td>
<td>1,723,634</td>
<td>1,815,911</td>
</tr>
<tr>
<td>Our Lady of the Way School*</td>
<td>3083</td>
<td>539,908</td>
<td>633,070</td>
<td>673,166</td>
<td>714,386</td>
</tr>
<tr>
<td>St Damian’s School*</td>
<td>3083</td>
<td>1,608,630</td>
<td>1,732,010</td>
<td>1,841,162</td>
<td>1,954,348</td>
</tr>
<tr>
<td>Northside Christian College</td>
<td>3083</td>
<td>859,099</td>
<td>936,474</td>
<td>1,000,970</td>
<td>1,068,399</td>
</tr>
<tr>
<td>Parade College*</td>
<td>3083</td>
<td>7,468,726</td>
<td>7,789,755</td>
<td>8,374,027</td>
<td>8,987,972</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td></td>
<td>46,171,680</td>
<td>47,502,200</td>
<td>51,581,014</td>
<td>55,051,305</td>
</tr>
</tbody>
</table>

*Denotes systemic schools

The entitlement amount for systemic schools is the amount that the school attracts to the system and
may be different from the final amount allocated to the school by the system office.
CAPITAL GRANTS PROGRAMME

Table 2

Expenditure and location of Capital Grants Programme funding to government schools in the identified postcodes for 2004

<table>
<thead>
<tr>
<th>Post-code</th>
<th>Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3058</td>
<td>Construction of multi purpose classroom. Upgrade of arts and crafts facility and staff work space.</td>
<td>$150,000</td>
</tr>
<tr>
<td>3073</td>
<td>Construction of multi purpose store room, canteen and staff work space. Upgrade of library, general purpose classrooms, multi purpose room, staff work space and amenities.</td>
<td>$500,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$650,000</strong></td>
</tr>
</tbody>
</table>

Table 3

Expenditure and location of Capital Grants to non-government schools in the identified postcodes for 2004

<table>
<thead>
<tr>
<th>Post-code</th>
<th>Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3070</td>
<td>Conversion to provide 3 science rooms and preparation room to north building level 2.</td>
<td>$470,000</td>
</tr>
<tr>
<td>3072</td>
<td>Construction of gymnasium.</td>
<td>$400,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$870,000</strong></td>
</tr>
</tbody>
</table>

Table 4

Expenditure and location of Capital Grants to non-government schools in the identified postcodes for 2005

<table>
<thead>
<tr>
<th>Post-code</th>
<th>Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3058</td>
<td>Construction of 4 general learning areas, seminar area, administration area and amenities.</td>
<td>$446,800</td>
</tr>
<tr>
<td>3058</td>
<td>Construction of 5 general learning areas, 2 seminar areas and an office.</td>
<td>$500,000</td>
</tr>
<tr>
<td>3072</td>
<td>Refurbishment of science room and canteen.</td>
<td>$167,550</td>
</tr>
<tr>
<td>3073</td>
<td>Construction of 2 general learning areas and 2 administration offices.</td>
<td>$150,000</td>
</tr>
<tr>
<td>3073</td>
<td>Construction of verandahs. Refurbishment of 3 general learning areas.</td>
<td>$159,962</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$1,424,312.00</strong></td>
</tr>
</tbody>
</table>

Table 5

Expenditure and location of Capital Grants to non-government schools in the identified postcodes for 2006

<table>
<thead>
<tr>
<th>Post-code</th>
<th>Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3058</td>
<td>Refurbishment of Year 7 - 10 building including general learning areas, computer rooms, textiles rooms, information technology and student amenities.</td>
<td>$500,000</td>
</tr>
</tbody>
</table>

QUESTIONS IN WRITING
### Table 6

<table>
<thead>
<tr>
<th>Post-code</th>
<th>Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3083</td>
<td>Construction of home economics area, materials/technologies area, graphics and music/drama area (stage 1).</td>
<td>$500,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$1,000,000</strong></td>
</tr>
</tbody>
</table>

Expenditure and location of Capital Grants to non-government schools in the identified postcodes for 2007

### Table 7

<table>
<thead>
<tr>
<th>Post-code</th>
<th>Purpose of Grant/Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3073</td>
<td>Conversion and refurbishment to provide multi-purpose room.</td>
<td>$470,000</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$470,000</strong></td>
</tr>
</tbody>
</table>

**FLAGPOLE FUNDING INITIATIVE**

### Table 8

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Purpose of Grant/Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3070</td>
<td>Purchase and installation of a flagpole</td>
<td>$975</td>
</tr>
<tr>
<td>3071</td>
<td>Purchase and installation of a flagpole</td>
<td>$1350</td>
</tr>
<tr>
<td>3073</td>
<td>Purchase and installation of a flagpole</td>
<td>$1255</td>
</tr>
<tr>
<td>3085</td>
<td>Purchase and installation of a flagpole</td>
<td>$1005</td>
</tr>
<tr>
<td>3058</td>
<td>Purchase and installation of a flagpole</td>
<td>$1430</td>
</tr>
<tr>
<td>3078</td>
<td>Purchase and installation of a flagpole</td>
<td>$1500</td>
</tr>
<tr>
<td>3071</td>
<td>Purchase and installation of a flagpole</td>
<td>$1370</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$8885</strong></td>
</tr>
</tbody>
</table>

Expenditure and location of payments under the Flagpole Funding Initiative to government schools in the identified postcodes for 2005

### Table 9

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Purpose of Grant/Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3073</td>
<td>Purchase and installation of a flagpole</td>
<td>$1433</td>
</tr>
<tr>
<td>3072</td>
<td>Purchase and installation of a flagpole</td>
<td>$1465</td>
</tr>
<tr>
<td>3073</td>
<td>Purchase and installation of a flagpole</td>
<td>$1345</td>
</tr>
<tr>
<td>3085</td>
<td>Purchase and installation of a flagpole</td>
<td>$1385</td>
</tr>
<tr>
<td>3083</td>
<td>Purchase and installation of a flagpole</td>
<td>$1235</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>$6863</strong></td>
</tr>
</tbody>
</table>

Expenditure and location of payments under the Flagpole Funding Initiative to government schools in the identified postcodes for 2006

**QUESTIONS IN WRITING**
Table 10
Expenditure and location of payments under the Flagpole Funding Initiative to non-government schools in the identified postcodes for 2005

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Purpose of Grant/Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3073</td>
<td>Purchase and installation of a flagpole</td>
<td>$1095</td>
</tr>
<tr>
<td>3073</td>
<td>Purchase and installation of a flagpole</td>
<td>$1230</td>
</tr>
<tr>
<td>3078</td>
<td>Purchase and installation of a flagpole</td>
<td>$1095</td>
</tr>
<tr>
<td>3071</td>
<td>Purchase and installation of a flagpole</td>
<td>$894</td>
</tr>
<tr>
<td>3058</td>
<td>Purchase and installation of a flagpole</td>
<td>$1445</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$5759</td>
</tr>
</tbody>
</table>

Table 11
Expenditure and location of payments under the Flagpole Funding Initiative to non-government schools in the identified postcodes for 2006

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Purpose of Grant/Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3058</td>
<td>Purchase and installation of a flagpole</td>
<td>$1013</td>
</tr>
<tr>
<td>3058</td>
<td>Purchase and installation of a flagpole</td>
<td>$859</td>
</tr>
<tr>
<td>3083</td>
<td>Purchase and installation of a flagpole</td>
<td>$1008</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$2880</td>
</tr>
</tbody>
</table>

INVESTING IN OUR SCHOOLS PROGRAMME
The Investing in Our Schools Programme is operated on a calendar year basis and all reporting is also done on this basis.

The projects listed are all projects approved for schools in the requested post codes. Some payments, such as progress payments for large projects, are still being made toward these projects.

Project applications received for 2006 from the state school sector are currently being assessed, therefore there is no data available for 2006 at this time.

Table 12
Investing in Our Schools Programme approved projects for 2005 for non-government schools around Batman by Postcode

<table>
<thead>
<tr>
<th>Post-code</th>
<th>Purpose of Grant/Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3058</td>
<td>Construction of glazed roof structure within the existing open courtyard and covered walkways and the provision of services and equipment.</td>
<td>$100,000</td>
</tr>
<tr>
<td>3058</td>
<td>Provision of carpets and air-conditioning. Upgrade of roof.</td>
<td>$75,000</td>
</tr>
<tr>
<td>Sub-Total</td>
<td>Post Code 3058</td>
<td>$175,000</td>
</tr>
<tr>
<td>3072</td>
<td>Refurbishment of multi-purpose hall. Upgrade playground areas.</td>
<td>$380,000</td>
</tr>
<tr>
<td>3083</td>
<td>Conversion to provide a storage shed. Provision of shade structures, fencing and associated site works.</td>
<td>$75,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$805,000.00</td>
</tr>
</tbody>
</table>
Table 13
Investing in Our Schools Programme approved projects for 2006 as at 20 September 2006 for non-government schools around Batman by Postcode

<table>
<thead>
<tr>
<th>Post-code</th>
<th>Purpose of Grant/Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3058</td>
<td>Removal of asbestos. Provision of floor and wall coverings.</td>
<td>$75,000</td>
</tr>
<tr>
<td>3058</td>
<td>Refurbishment of staff areas in senior campus. Upgrade of roof, air-conditioning and carpet to junior two-storey building.</td>
<td>$75,000</td>
</tr>
<tr>
<td>Sub-Total Post Code 3058</td>
<td></td>
<td>$150,000</td>
</tr>
<tr>
<td>3071</td>
<td>Refurbishment of technology room and staff work station. Provision of art cupboard, sink, furniture and equipment.</td>
<td>$75,000</td>
</tr>
<tr>
<td>Sub-Total Post Code 3071</td>
<td></td>
<td>$75,000</td>
</tr>
<tr>
<td>3073</td>
<td>Construction of shades over 2 play areas and refurbishment of kitchen to meet OH&amp;S standards.</td>
<td>$57,916</td>
</tr>
<tr>
<td>3073</td>
<td>Refurbishment of student amenities. Upgrade of painting, furniture and equipment. Removal of trees.</td>
<td>$75,000</td>
</tr>
<tr>
<td>3073</td>
<td>Provision of computer infrastructure, computer equipment, external painting and outdoor seating.</td>
<td>$56,000</td>
</tr>
<tr>
<td>Sub-Total Post Code 3073</td>
<td></td>
<td>$188,916</td>
</tr>
<tr>
<td>3078</td>
<td>Construction of 3 acrylic surfaces for netball/basketball courts.</td>
<td>$65,000</td>
</tr>
<tr>
<td>3083</td>
<td>Refurbishment of library.</td>
<td>$75,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>$967,832.00</td>
</tr>
</tbody>
</table>

Table 14
Investing in Our Schools Programme approved projects for 2005 for government schools around Batman by Postcode

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Purpose of Grant/Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3058</td>
<td>Toilets Upgrade</td>
<td>$75,020.00</td>
</tr>
<tr>
<td>3058</td>
<td>ICT Upgrade</td>
<td>$21,397.00</td>
</tr>
<tr>
<td>3058</td>
<td>Hydro therapy swim spa</td>
<td>$39,071.00</td>
</tr>
<tr>
<td>3058</td>
<td>Synthetic Grass</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>3058</td>
<td>Upgrade to sick-bay</td>
<td>$12,555.00</td>
</tr>
<tr>
<td>3058</td>
<td>Refurbishment of School Rooms</td>
<td>$14,250.00</td>
</tr>
<tr>
<td>3058</td>
<td>Classroom desks and chairs</td>
<td>$41,300.00</td>
</tr>
<tr>
<td>Sub-Total Post Code 3058</td>
<td></td>
<td>$253,593.00</td>
</tr>
<tr>
<td>3070</td>
<td>Toilet refurbishment and relocation</td>
<td>$117,552.00</td>
</tr>
<tr>
<td>Sub-Total Post Code 3070</td>
<td></td>
<td>$117,552.00</td>
</tr>
<tr>
<td>3071</td>
<td>Refurbishment of Library</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>3071</td>
<td>Outdoor Learning Area Improvements</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>3071</td>
<td>Library Refurbishment and ICT Upgrade</td>
<td>$98,521.00</td>
</tr>
<tr>
<td>3071</td>
<td>Library Upgrade</td>
<td>$44,479.00</td>
</tr>
<tr>
<td>3071</td>
<td>Oval Refurbishment and Watering System Installation</td>
<td>$17,968.00</td>
</tr>
<tr>
<td>3071</td>
<td>Floor Coverings - East Wing Building</td>
<td>$32,000.00</td>
</tr>
<tr>
<td>Sub-Total Post Code 3071</td>
<td></td>
<td>$292,968.00</td>
</tr>
<tr>
<td>3072</td>
<td>New Furniture &amp; Teaching Facilities Project</td>
<td>$34,476.00</td>
</tr>
<tr>
<td>3072</td>
<td>Security Fencing</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>3072</td>
<td>Shade Structures Grounds and Classroom Upgrade</td>
<td>$92,416.00</td>
</tr>
<tr>
<td>3072</td>
<td>Sports Courts</td>
<td>$149,058.00</td>
</tr>
<tr>
<td>3072</td>
<td>Synthetic grass area</td>
<td>$44,900.00</td>
</tr>
</tbody>
</table>

QUESTIONS IN WRITING
### Postcode Purpose of Grant/Project Description Grant Amount

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Purpose of Grant/Project Description</th>
<th>Grant Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3072</td>
<td>Sporting and Play Equipment Improvements</td>
<td>$49,326.00</td>
</tr>
<tr>
<td>3072</td>
<td>Shade structures</td>
<td>$22,272.00</td>
</tr>
<tr>
<td>3072</td>
<td>Amenity Refurbishment - Sick Bay/First Aid/Teaching Interview/Office Area</td>
<td>$47,830.00</td>
</tr>
<tr>
<td></td>
<td>Sub-Total Post Code 3072</td>
<td>$590,278.00</td>
</tr>
<tr>
<td>3073</td>
<td>Classroom music / performance / recording / multimedia</td>
<td>$44,870.00</td>
</tr>
<tr>
<td>3073</td>
<td>Toilet Renovation</td>
<td>$150,000.00</td>
</tr>
<tr>
<td>3073</td>
<td>Hall Upgrade</td>
<td>$61,383.00</td>
</tr>
<tr>
<td>3073</td>
<td>Air-conditioning</td>
<td>$24,948.00</td>
</tr>
<tr>
<td>3073</td>
<td>Security Fencing and Pedestrian Entrance</td>
<td>$41,391.00</td>
</tr>
<tr>
<td></td>
<td>Sub-Total Post Code 3073</td>
<td>$322,592.00</td>
</tr>
<tr>
<td>3078</td>
<td>Shade Structure and Play Equipment Upgrade</td>
<td>$96,556.00</td>
</tr>
<tr>
<td>3078</td>
<td>Canteen Kitchen Upgrade</td>
<td>$7,078.00</td>
</tr>
<tr>
<td>3078</td>
<td>Air-conditioning</td>
<td>$5,698.00</td>
</tr>
<tr>
<td>3078</td>
<td>Multi-purpose room refurbishments</td>
<td>$9,320.00</td>
</tr>
<tr>
<td>3078</td>
<td>ICT/Multi Media and Literacy Resources Upgrade</td>
<td>$50,000.00</td>
</tr>
<tr>
<td></td>
<td>Sub-Total Post Code 3078</td>
<td>$168,652.00</td>
</tr>
<tr>
<td>3083</td>
<td>Air-conditioning</td>
<td>$41,768.00</td>
</tr>
<tr>
<td>3083</td>
<td>Air-conditioning</td>
<td>$27,268.00</td>
</tr>
<tr>
<td>3083</td>
<td>Shade Structure Sports Court and Play Equipment Refurbishment</td>
<td>$136,196.00</td>
</tr>
<tr>
<td>3083</td>
<td>Library Extension and Refurbishment</td>
<td>$150,000.00</td>
</tr>
<tr>
<td></td>
<td>Sub-Total Post Code 3083</td>
<td>$355,232.00</td>
</tr>
<tr>
<td>3085</td>
<td>Classroom refurbishment</td>
<td>$33,515.00</td>
</tr>
<tr>
<td>3085</td>
<td>ICT Upgrade</td>
<td>$144,871.00</td>
</tr>
<tr>
<td>3085</td>
<td>Facilities improvements (shade structures)</td>
<td>$22,121.00</td>
</tr>
<tr>
<td>3085</td>
<td>Facilities improvements - ICT equipment</td>
<td>$11,306.00</td>
</tr>
<tr>
<td>3085</td>
<td>Facilities improvements</td>
<td>$12,600.00</td>
</tr>
<tr>
<td></td>
<td>Sub-Total Post Code 3085</td>
<td>$224,413.00</td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL</strong></td>
<td><strong>$2,325,280</strong></td>
</tr>
</tbody>
</table>

### VALUES EDUCATION PROGRAMME

#### Table 15

Values Education Programme funding in 2006-07

Note: as funding is provided to clusters of schools extending beyond the identified postcodes funding cannot be reliably attributed to individual schools within each cluster. No funding was provided to schools in the identified postcodes in 2004-05 or 2005-06.

<table>
<thead>
<tr>
<th>Client Type</th>
<th>Sum &amp; Purpose of grant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-government</td>
<td>King Khalid Islamic College in Postcode 3058 is part of a cluster of five schools that will receive total funding of $24,050.80 in 2006/07 FY to participate in a Values Education project.</td>
</tr>
<tr>
<td>Government</td>
<td>10 schools in Postcodes 3072 and 3073 are part of a cluster that will receive total funding of $25,000 in 2006/07 FY to participate in a Values Education project.</td>
</tr>
</tbody>
</table>

### QUESTIONS IN WRITING
AUSTRALIAN SCHOOL INNOVATION IN SCIENCE, TECHNOLOGY AND MATHEMATICS (ASISTM) PROJECT

Table 16
Expenditure and location of payments for Australian School Innovation in Science, Technology and Mathematics (ASISTM) Project to schools in the identified postcodes for 2005/06

Note: as funding is provided to clusters of schools extending beyond the identified postcodes funding cannot be reliably attributed to individual schools within each cluster.

<table>
<thead>
<tr>
<th>Post-code</th>
<th>Purpose of Grant/Project Description</th>
<th>Funding $</th>
</tr>
</thead>
<tbody>
<tr>
<td>3070</td>
<td>Northcote High School is a part of a successful school cluster project in Round Two of the ASISTM Project.</td>
<td>$75,868 (Total funding for the project)</td>
</tr>
<tr>
<td>3071</td>
<td>Distance Education Centre Victoria is a part of a successful school cluster project in Round Two of the ASISTM Project.</td>
<td>$75,417 (Total funding for the project)</td>
</tr>
<tr>
<td>3072</td>
<td>Northland Secondary College is a lead organisation of a successful school cluster project in Round Two of the ASISTM Project.</td>
<td>$50,073 (Total funding for the project)</td>
</tr>
<tr>
<td>3072</td>
<td>Bell Primary School is a part of a successful school cluster project in Round Two of the ASISTM Project.</td>
<td>$50,073 (Total funding for the project)</td>
</tr>
<tr>
<td>3072</td>
<td>Preston North East Primary School is a part of a successful school cluster project in both Rounds One and Two of the ASISTM Project.</td>
<td>$115,320 (Total funding for the project) – Round 1 $50,073 (Total funding for the project) – Round 2</td>
</tr>
<tr>
<td>3072</td>
<td>Preston Girls Secondary College is a part of a successful school cluster project in Round One of the ASISTM Project.</td>
<td>$88,494 (Total funding for the project)</td>
</tr>
<tr>
<td>3073</td>
<td>Merrilands College is a part of a successful school cluster project in both Round One and Two of the ASISTM Project.</td>
<td>$110,000 (Total funding for the project) – Round 1 $80,434 (Total funding for the project) – Round 2</td>
</tr>
<tr>
<td>3073</td>
<td>Reservoir East Primary School is a part of a successful school cluster project in Round Two of the ASISTM Project.</td>
<td>$50,073 (Total funding for the project)</td>
</tr>
<tr>
<td>3085</td>
<td>Macleod College is a part of a successful school cluster project in Round Two of the ASISTM Project.</td>
<td>$75,868 (Total funding for the project)</td>
</tr>
</tbody>
</table>
SUCCESS FOR BOYS

Table 17
Expenditure and location of payments under the second stage of the Success for Boys project to schools in the identified postcodes for 2005

<table>
<thead>
<tr>
<th>Post-code</th>
<th>Purpose of Grant/Project Description</th>
<th>Funding $</th>
</tr>
</thead>
<tbody>
<tr>
<td>3070</td>
<td>In 2005 Northcote High School received a grant of $11,000 in Round 1 of the Success for Boys Programme to support their implementation of the Success for Boys Professional Learning Programme.</td>
<td>$11,000</td>
</tr>
</tbody>
</table>

2004 ABORIGINAL STUDENT SUPPORT AND PARENT AWARENESS (ASSPA) FUNDING

Table 18

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Funding Amount $</th>
</tr>
</thead>
<tbody>
<tr>
<td>3058</td>
<td>$220.00</td>
</tr>
<tr>
<td></td>
<td>$110.00</td>
</tr>
<tr>
<td></td>
<td>$480.00</td>
</tr>
<tr>
<td>3070</td>
<td>$480.00</td>
</tr>
<tr>
<td></td>
<td>$2,560.00</td>
</tr>
<tr>
<td></td>
<td>$1,280.00</td>
</tr>
<tr>
<td>3071</td>
<td>$2,750.00</td>
</tr>
<tr>
<td></td>
<td>$6,710.00</td>
</tr>
<tr>
<td></td>
<td>$1,320.00</td>
</tr>
<tr>
<td>3072</td>
<td>$550.00</td>
</tr>
<tr>
<td></td>
<td>$14,400.00</td>
</tr>
<tr>
<td></td>
<td>$220.00</td>
</tr>
<tr>
<td></td>
<td>$990.00</td>
</tr>
<tr>
<td></td>
<td>$4,620.00</td>
</tr>
<tr>
<td></td>
<td>$1,320.00</td>
</tr>
<tr>
<td>3073</td>
<td>$990.00</td>
</tr>
<tr>
<td></td>
<td>$1,210.00</td>
</tr>
<tr>
<td></td>
<td>$7,200.00</td>
</tr>
<tr>
<td></td>
<td>$110.00</td>
</tr>
<tr>
<td></td>
<td>$1,320.00</td>
</tr>
<tr>
<td>3078</td>
<td>$330.00</td>
</tr>
<tr>
<td>3083</td>
<td>$700.00</td>
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<tr>
<td></td>
<td>$660.00</td>
</tr>
<tr>
<td></td>
<td>$880.00</td>
</tr>
</tbody>
</table>

2005 WoSI / HWC Funding

Table 19

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Project Name</th>
<th>DEST TOTAL $</th>
</tr>
</thead>
<tbody>
<tr>
<td>3070</td>
<td>Homework Centre</td>
<td>$15,520.00</td>
</tr>
<tr>
<td>3071</td>
<td>Homework Centre</td>
<td>$8,437.00</td>
</tr>
<tr>
<td></td>
<td>Homework Centre</td>
<td>$5,446.00</td>
</tr>
<tr>
<td>3072</td>
<td>Homework Centre</td>
<td>$28,935.00</td>
</tr>
<tr>
<td></td>
<td>Koorie Literacy and Numeracy Development Project</td>
<td>$47,500.00</td>
</tr>
<tr>
<td></td>
<td>Homework Centre</td>
<td>$14,220.50</td>
</tr>
</tbody>
</table>

QUESTIONS IN WRITING
226 HOUSE OF REPRESENTATIVES Wednesday, 29 November 2006

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Project Name</th>
<th>DEST TOTAL $</th>
</tr>
</thead>
<tbody>
<tr>
<td>3083</td>
<td>Homework Centre</td>
<td>$25,596.00</td>
</tr>
</tbody>
</table>

2006 WoSI / HWC Funding

Table 20

<table>
<thead>
<tr>
<th>Postcode</th>
<th>Project Name</th>
<th>DEST TOTAL $</th>
</tr>
</thead>
<tbody>
<tr>
<td>3071</td>
<td>Indigenous Mentoring Programme</td>
<td>$21,800.00</td>
</tr>
<tr>
<td></td>
<td>Homework Centre</td>
<td>$31,802.00</td>
</tr>
<tr>
<td>3072</td>
<td>Bri–Ark – Koori Homework Centre</td>
<td>$5,512.00</td>
</tr>
<tr>
<td></td>
<td>Woiworung Literacy Initiative</td>
<td>$35,200.00</td>
</tr>
<tr>
<td></td>
<td>News, Views and Music Initiative</td>
<td>$39,500.00</td>
</tr>
<tr>
<td>3073</td>
<td>Indigenous Cross–Age Literacy and Numeracy Tutoring and Mentoring Programme</td>
<td>$40,000.00</td>
</tr>
</tbody>
</table>

**Tutorial Voucher Initiative**

(Question No. 4337)

**Mr Bowen** asked the Minister for Education, Science and Training, in writing, on 13 September 2006:

(1) In the federal electorate of Prospect: (a) how many parents or caregivers of students have received vouchers for tutorial assistance under the Tutorial Voucher Initiative since the commencement of the program; (b) what proportion of students participating in the program attend each category of school; (c) based on pre and post-tuition assessment, what is the difference in the reading levels achieved by students who have participated in the program; and (d) how many parents or caregivers who approached the broker to participate in the program were unable or unwilling to access suitable tuition.

(2) What is the participation rate in the Tutorial Voucher Initiative program in (a) the federal electorate of Prospect, (b) New South Wales and (c) Australia?

**Ms Julie Bishop**—The answer to the honourable member’s question is as follows:

(1) (a) The Australian Government does not have the data for eligible students at the electorate level.

(b) See answer (1a) above.

(c) The Department does not hold identified data on the improvement in reading achievement of individual students. The evaluation of the pilot Initiative shows that over 80% of responding parents felt their child had improved in reading and enjoying reading and 85% felt their child had increased their confidence in reading, while 69% of responding tutors felt most or all of the students they tutored had improved in reading.

(d) See answer (1a) above.

(2) (a) See answer (1a) above.

(b) In NSW, 4,050 eligible students registered for tuition under the pilot Tutorial Voucher Initiative.

(c) The pilot Tutorial Voucher Initiative assisted around 6,200 students nationally during 2005.
Eating Disorders
(Question No. 4340)

Ms Burke asked the Minister for Health and Ageing, in writing, on 13 September 2006:

(1) Does the Government contribute to specific eating disorder awareness, prevention and treatment programs; if so, (a) what sum is contributed and (b) what are the details of the programs.

(2) Does the Government contribute to specific obesity awareness, prevention and treatment programs; if so, (a) what sum is contributed and (b) what are the details of the programs.

(3) What sum has the current Government provided towards research into eating disorders.

(4) Is he aware of the Worldwide Charter for Action on Eating Disorders; if so, is Australia a signatory to the Charter; if not (a) why not and (b) will Australia become a signatory to the Charter; if not, why not; if so, when.

(5) In respect of treatment for eating disorders such as anorexia nervosa, bulimia nervosa, binge eating disorder and other related disorders, (a) what options are available to Australians and (b) to what extent is the treatment covered by Medicare.

(6) In respect of treatment for Australians in the early stages of an eating disorder, who do not meet the DSM IV diagnostic criteria for anorexia nervosa or bulimia nervosa, (a) what options are available and (b) to what extent is the treatment covered by Medicare.

(7) What sum has the current Government contributed towards programs that educate and train medical professionals to recognise and treat eating disorders.

(8) What advice has he received on the availability and efficacy of the various types of treatment available to Australians suffering from an eating disorder.

(9) Is he aware of media reports that the incidence of eating disorders in Australia is increasing, particularly among school-aged children; if so, (a) what is his response and (b) what action is he taking to curb the trend.

(10) What sum has the current Government contributed towards programs that promote a healthy body image in school-aged children and university students, and what are the details of these programs.

(11) Is the Government considering the development of a national code of conduct on body image to ensure that the media, fashion industry and advertisers portray a more diverse and healthy range of men and women; if so, how will the code of conduct be developed; if not, why not.

Mr Abbott—The answer to the honourable member’s question is as follows:

(1) (a) and (b) The Commonwealth Government supports a range of initiatives that aim to promote the social and emotional wellbeing of young people, prevent the development of mental health problems, including eating disorders, and to intervene early at the first sign of problems.

Commonwealth Government initiatives include:

- The MindMatters mental health promotion, prevention and early intervention initiative for secondary schools. ($3.2 million p.a.).
- The KidsMatter mental health promotion, prevention and early intervention initiative for primary schools. ($1.5 million p.a.).
- The Council of Australian Governments (COAG) Mental Health New Early Intervention Services for Parents, Children and Young People initiative. ($28.1 million over five years)
- The 2005-2006 promoting Better Mental Health Youth Mental Health Initiative ($69 million to June 2009)
Additionally, the Commonwealth Government provided funding of $268,000 to the Royal Australian and New Zealand College of Psychiatrists (RANZCP) to develop national clinical practice guidelines (CPGs) for a range of conditions, including anorexia nervosa.

(2) (a) and (b) The Department of Health and Ageing develops national guidelines, consumer information and targeted campaigns to raise the awareness of the need for good nutrition and physical activity. This includes physical activity recommendations, nutrition information including the Australian Guide to Healthy Eating and the Australian Dietary Guidelines and information for health professionals including clinical guidelines.

The Commonwealth Government has provided $165.6 million since 2003-04 for obesity awareness, prevention and treatment programs including:

- Building a Healthy Active Australia
- Healthy Weight Website
- Lifestyle Scripts

The Australian Better Health Initiative

In February 2006, COAG provided $39.8 million over five years through the Australian Better Health Initiative for:

- a program of rolling national social marketing campaigns to increase the awareness of risk factors related to nutrition, physical activity and healthy weight ($19.8 million);
- school and community grants to support local responses to combat overweight and obesity, with an emphasis on promoting healthy eating and good nutrition ($12 million);
- the Healthy Active Ambassador Program, where well-known people will promote healthy living messages to Australians, particularly young people ($2 million);
- the development of a national food classification system for school canteen guidelines and a national training resource for canteen managers ($2 million);
- Walk to Work and Walk to School national awareness, including media and public relations activities ($3.2 million); and
- evaluation and dissemination of best practice programs, including a national network to share best practice information on local programs which support healthy living and active lifestyle ($800,000).

(3) The National Health and Medical Research Council (NHMRC), the government’s main health and medical research funding body, provides research support through a variety of mechanisms, including support for individual research projects, broad programs of research and people support schemes.

During the period 2000 to 2006, the Commonwealth Government, through the NHMRC, awarded $2.25 million for research investigating eating disorders.

(4) (a) and (b) Individuals and organisations are invited to sign the charter. A number of individuals and organisations from Australian have signed the charter. Governments do not appear to be signatories to the charter.

(5) (a) The Department of Health and Ageing worked with the RANZCP to develop a series of CPGs for the management of mental disorders, including anorexia nervosa. The CPGs are systematically developed statements to assist practitioners in making decisions about appropriate health care for specific clinical circumstances. Their main purpose is to improve health outcomes for patients by improving the practice of clinicians. The guidelines are available from the RANZCP website (www.ranzcp.org).
Treatment options for people with eating disorders include services from private psychiatrists, general practitioners (GPs), clinical psychologists and other allied mental health professionals. State and territory governments also provide complementary services for people with eating disorders through hospitals and state/territory mental health services.

(b) In addition to the Medicare Benefits Schedule items that currently cover psychiatrist and GP services, the 2006-07 Budget contained a $538 million new initiative called Better Access to Psychiatrists, Psychologists and General Practitioners through the Medicare Benefits Schedule. The Better Access initiative will increase community access to mental health professionals and team-based mental health care, with GPs encouraged to work more closely and collaboratively with psychiatrists, clinical psychologists and other allied mental health professionals.

A new GP Mental Health consultation item will be available for GPs to provide continuing management of patients with mental disorders, including eating disorders.

New items will also be available for up to 12 individual and/or 12 group allied mental health services per calendar year to patients with an assessed mental disorder, including an eating disorder, who are referred by:

- a medical practitioner managing the patient under a GP Mental Health Care Plan or under a psychiatrist assessment and management plan; or
- a psychiatrist or paediatrician.

Allied mental health services under this initiative include psychological assessment and therapy services provided by eligible clinical psychologists, and focussed psychological strategies provided by eligible psychologists, social workers and occupational therapists.

(6) (a) and (b) Clinical advice suggests that patients in early stages of an eating disorder would meet the diagnostic criteria for an eating disorder and be eligible for treatment services outlined in the response to (5) above.

(7) The Commonwealth Government provides approximately $16,000 per year per medical student to universities to educate our future doctors. This is around $80,000 per student for a five-year course. In addition, governments contribute considerable sums by way of capital contributions to establish medical schools and to operate our postgraduate and vocational training system.

The Commonwealth Government supported the development of the CPGs for the RANZCP. The CPGs provide medical professionals with evidence-based information on anorexia nervosa.

The Commonwealth Government provides funding to RANZCP to assist in the structural reform of training. This is part of the “Increasing and Supporting the Mental Health Workforce” measure under the COAG Mental Health package. It is expected that the CPGs will be reviewed as part of this process.

The Commonwealth Government has provided approximately $9.5 million in funding for the Support Scheme for Rural Specialist (SSRS) Program since 2002-03. In 2003, a workshop on eating disorders was provided to rural paediatricians. In 2004, a session on obesity was provided to paediatricians and advanced trainees.

The Better Access to Psychiatrists, Psychologists and General Practitioners through the Medicare Benefits Schedule initiative includes funding for mental health education and training for appropriate assessment, diagnosis and treatment of mental disorders by primary and specialist mental health care providers.

CPGs developed by RANZCP for the management of anorexia nervosa outline the most appropriate, evidence based treatment for this disorder.

(8) The Department of Health and Ageing worked with the RANZCP to develop a series of CPGs for the management of mental disorders, including anorexia nervosa. The CPGs are systematically de-
developed statements to assist practitioners in making decisions about appropriate health care for specific clinical circumstances. Their main purpose is to improve health outcomes for patients by improving the practice of clinicians. The guidelines are available from the RANZCP website (www.ranzcp.org).

(9) Yes. The incidence of eating disorders does appear to be increasing, however, it is uncertain if this is due to an increase in the number of people developing the disorders or because improved recognition has led to more cases being diagnosed. The term, ‘eating disorders’, is also being more widely used to not only describe conditions like anorexia nervosa and bulimia nervosa but other behaviours such as compulsive eating, obesity and dieting behaviours. Therefore, it is difficult to gain an accurate picture of the number of people who have eating disorders.

(a) and (b) Refer to responses to questions (1) – (3), (5) and (7).

(10) Refer to responses to questions (1) – (2).

(11) No, the Commonwealth Government is not considering the development of a national code of conduct on body image, however the Commonwealth Government’s Mindframe National Media Initiative, addresses the portrayal of mental illness in the media more broadly.

The Mindframe resource provides practical advice and information to support the work of media professionals. The resource is designed to inform responsible and appropriate reporting of suicide and mental illness in order to reduce harm and copycat behaviour, and reduce the stigma experienced by people who experience a mental illness.

The Mindframe website provides facts on eating disorders, and the broad concepts of Mindframe on reporting and portraying suicide and mental illness sensibly, accurately and responsibly, and avoiding stigmatising stereotypes, should be used by media as a guide when dealing with these issues. The Mindframe website is www.mindframe-media.info.

Another of the Mindframe projects run by SANE Australian, StigmaWatch, was established to enhance the community’s ability to take action against media reporting that stigmatises mental illness. You can find the SANE StigmaWatch program at www.sane.org.

Commonwealth Scientific and Industrial Research Organisation

(Question No. 4344)

Mr Murphy asked the Minister for Education, Science and Training, in writing, on 13 September 2006.

(1) Has she seen the program titled “Greenhouse Mafia”, which aired on the Four Corners program on 13 February 2006; if not, why not.

(2) Is she aware that Dr Graeme Pearman, former CSIRO Climate Director, was the recipient of a UN Environmental Program Global award in 1989, awarded an Order of Australia in 1999 and awarded a Federation Medal in 2003.

(3) Is she aware of Dr Pearman’s allegations, reported on the Four Corners program on 13 February 2006, that he was advised he “couldn’t say anything that indicated that I disagreed with current government policy”; if not, why not.

(4) Can she confirm that the CSIRO is a portfolio agency which reports to her.

(5) Has she spoken to managers at the CSIRO regarding what scientists can, cannot, should or should not say in the course of their duties.

(6) Has she conducted an investigation into her office to determine whether a member of her staff has spoken to managers at the CSIRO regarding what scientists can, cannot, should or should not say in the course of their duties. If not, why not; if so, what are the details of that investigation.
(7) Has she conducted an investigation into the Department of Education, Science and Training to determine whether any officer has spoken to managers at the CSIRO regarding what scientists can, cannot, should or should not say in the course of their duties; if not, why not; if so, what are the details of the investigation.

(8) Can she confirm that the CSIRO charter contains provisions that enshrine the independence of CSIRO scientists from all departments and the Government.

Ms Julie Bishop—The answer to the honourable member’s question is as follows:

(1) No. I was performing Ministerial duties.
(2) Yes.
(3) Yes.
(4) Yes.
(5) No.
(6) No. As a statutory authority, CSIRO is responsible for determining its own policies in relation to matters such as public comment.
(7) No. See answer to question (6).
(8) CSIRO does not have a charter. It does however have a Public Comment Policy which acts as a guide for scientists.

Consultancy Services
(Question No. 4701)

Mr Fitzgibbon asked the Minister for Revenue and Assistant Treasurer, in writing, on 9 October 2006:

(1) What sum did the Australian Taxation Office spend on consultancies in the financial year (a) 2002-03 (b) 2003-04 (c) 2004-05 and (d) 2005-06
(2) What is the estimated sum that the Australian Taxation Office will spend on consultancies in the financial 2006-07.

Mr Dutton—The answer to the honourable member’s question is as follows:

(1) The Australian Taxation Office reports the costs on consultancy services in its annual reports.
(2) The Australian Taxation Office expects to spend approximately $22 million on consultancy services inclusive of GST in 2006-07.

Fuel Consumption
(Question No. 4705)

Mr Kelvin Thomson asked the Minister for Local Government, Territories and Roads, in writing, on 9 October 2006:

(1) How reliable are the fuel consumption figures provided by car manufacturers?
(2) Is he aware of a report in the Sydney Morning Herald of 8 September 2006 titled “Rubbery Figures”, which states that the real fuel consumption of cars is higher than the figure shown on windscreen labels under Australian Design Rule 81/01 because the highway component of the test cycle is given disproportionate weighting by car manufacturers when calculating average fuel consumption.
(3) Do car manufacturers obtain separate city and highway figures during testing of fuel consumption.
(4) Are the figures referred to in Part (3) supplied to the Federal Government.
(5) Is he aware that since 1999 the European Union has mandated the display of city, highway and combined average fuel consumption figures; if so, will he require car manufacturers to make this data publicly available in Australia.

Mr Lloyd—The answer to the honourable member’s question is as follows:

(1) Fuel consumption figures on the label represent results from controlled tests conducted by manufacturers to demonstrate a vehicle model’s compliance with the Australian Design Rules (ADRs). All vehicles are tested using standardised, carefully controlled conditions in specialised vehicle emission laboratories which are audited by the Australian Government. No laboratory test can simulate all possible combinations of conditions experienced on the road. The objective in providing the data is to enable consumers to compare vehicles on a common basis, not to predict actual fuel consumption. ‘Real world’ fuel consumption may vary from the results provided on the fuel consumption label.

(2) Although the terms are commonly used, the fuel consumption test does not contain a city and highway component. The test is split into an ‘urban’ cycle (which represents conditions found in stop-start traffic) and an ‘extra-urban’ cycle (which involves the vehicle accelerating to higher speeds, but not remaining at a constant speed typical of highway driving). The weighting of the urban and extra urban figures is determined by the test procedures within United National Economic Commission for Europe Regulations incorporated within ADR 81/01, not by the manufacturers.

(3) See answer (2), also, although not currently required by ADR 81/01, it is likely that most manufacturers record separate urban and extra-urban figures during testing for fuel consumption.

(4) No.

(5) I understand that this is not correct. The EC Directive 1994/94/EC regarding consumer information on fuel consumption, including vehicle labelling, only requires the combined fuel consumption and carbon dioxide figures to be displayed. This Directive took effect from 2001 with some states only putting it into law in late 2004. Labels in some member states of the European Union do provide the urban and extra-urban figures, but this is voluntary. At this stage, there are no plans to require car manufacturers to make urban and extra urban data publicly available in Australia. ADR 81/01 is being reviewed, commencing later this year, and this issue will be considered in the review.

Tumut Plant: Grants
(Question No. 4727)

Mr Martin Ferguson asked the Minister for Industry, Tourism and Resources, in writing, on 10 October 2006:

Further to my response to question No. 4103 (5 October, 2006) concerning a grant from the Strategic Investment Coordination process to Visy for the establishment of its Tumut pulp and paper mill, (a) what were the conditions in the grant deeds and (b) what audit has been undertaken to ensure these conditions were met.

Mr Ian Macfarlane—The answer to the honourable member’s question is as follows:

In addition to the usual clauses of an Australian Government contract, payments to Visy were conditional on the company achieving specific performance milestones. These milestones related to progress by Visy in building, commissioning and operating the pulp and paper mill and set requirements for investment by the company in the project, production tonnage levels and employment levels. The company was required also to report progress on a regular basis.

Officers of my Department monitored the progress of this project as part of normal contract management to ensure that it met the conditions. Additionally, regular discussions were held with Visy’s operational staff and Departmental officers visited the project site.
Environmental Non-Government Organisations: Taxation Concessions
(Question No. 4729)

Mr Martin Ferguson asked the Treasurer, in writing, on 10 October 2006:

(1) How many environmental non-government organisations receive taxation concessions and/or deductibility status by virtue of being deemed a charity and which organisations are they.

(2) Have any environmental non-government organisations, which have applied to be deemed a charity, been refused, within the past three years.

(3) What was the actual, or estimated, cost in forgone revenue resulting from the charitable status of environmental non-government organisations for the financial year (a) 2003-04, (b) 2004-05 and (c) 2005-06.

(4) What auditing has been carried out to ensure that environmental non-government organisations remain eligible for charitable status.

(5) Which environmental non-government organisations were audited for the financial year (a) 2003-04, (b) 2004-05 and (c) 2005-06, and what were the results of each audit.

Mr Dutton—The Treasurer has referred this question to me as it falls within my ministerial responsibilities.

The answer to the honourable member’s question is as follows:

(1) Environmental organisations that meet the requirements of a charity can be endorsed to receive taxation concessions. Environmental organisations that operate a public fund listed on the Register of Environmental Organisations are entitled to deductible gift status for the public fund. Some organisations are entitled to both tax concession status and deductible gift status for a fund that it operates.

The Commissioner of Taxation advised that the following numbers of environmental non-government organisations receive taxation concessions and/or deductibility status:

- 269 organisations have taxation concession status but not deductibility status.
- 250 organisations have deductibility status but not taxation concession status.
- 110 organisations have both taxation concession status and deductibility status.

It has long been the practice of the Commissioner not to provide information relating to specific taxpayers or organisations. However, where the name or ABN of an organisation is known, the Australian business register (ABR) may be searched in order to see which concessions that organisation is endorsed for, and the dates the concessions apply from. The ABR website is www.abr.gov.au.

The public funds listed on the Register of Environmental Organisations are available on the Department of Heritage and Environment website, at www.deh.gov.au.

(2) A total of twelve non-government environmental organisations which applied for endorsement for Tax Concession Charity status were refused endorsement in the past three financial years.

(3) The ministerial statement, Investing for a Sustainable Australia, (Budget 2003-04) estimated the cost resulting from the tax deductibility of registered environmental organisations as $14 million for the 2003-04 financial year.

The Environment Budget Overview (Budget 2005-06) estimated the cost resulting from the tax deductibility of registered environmental organisations as $22 million for both the 2004-05 and 2005-06 financial years.

(4) From the 2005 financial year until 31 October 2006, 315 internal reviews and 14 client risk reviews of environmental organisations were carried out to ensure that endorsed environmental organisations remain eligible for charitable status.
It has long been the practice of the Commissioner not to provide information relating to specific taxpayers or organisations.

**Counter-Terrorism Exercises**

(Question No. 4734)

Mr Melham asked the Attorney-General, in writing, on 10 October 2006:

Further to his response to Question No. 2634 (Hansard, 9 February 2006, page 175), what was the final total cost of national counter-terrorism exercise Mercury 05.

Mr Ruddock—The answer to the honourable member’s question is as follows:

The final cost of the Mercury 05 exercise to the National Counter-Terrorism Committee special fund was $1.86 million.

**Counter-Terrorism Exercises**

(Question No. 4735)

Mr Melham asked the Attorney-General, in writing, on 10 October 2006:

Further to his response to question No. 1447 (Hansard, 17 August 2005, page 210), in respect of each counter-terrorism exercise conducted or coordinated by the Commonwealth Government since August 2005, (a) what was the name of the exercise, (b) when was it conducted, (c) which Commonwealth Government (i) departments and (ii) agencies participated in the exercise, and (d) which State and Territory government (i) departments and (ii) agencies participated in the exercise.

Mr Ruddock—The answer to the honourable member’s question is as follows:

In respect of counter-terrorism exercises conducted or coordinated by the Government, I provide the following information regarding exercises since August 2005:

<table>
<thead>
<tr>
<th>(a) Exercise Name</th>
<th>(b) Date Conducted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exercise Mercury 05</td>
<td>17-20 October 2005</td>
</tr>
<tr>
<td>Exercise Neptune’s Treasure</td>
<td>16-18 May 2006</td>
</tr>
<tr>
<td>Exercise Western Explorer</td>
<td>13-16 June 2006</td>
</tr>
<tr>
<td>Exercise Southern Impact</td>
<td>26-27 July 2006</td>
</tr>
<tr>
<td>Exercise August Act</td>
<td>28-30 August 2006</td>
</tr>
<tr>
<td>Exercise Blue Luminary 1</td>
<td>20-22 September 2006</td>
</tr>
</tbody>
</table>

These exercises involved personnel from a wide range of Commonwealth and State and Territory agencies, including in the areas of government policy, security, law enforcement, intelligence and emergency management.

(c) (i) (ii) Commonwealth Government departments and agencies have participated in every counter-terrorism exercise since August 2005. Participating departments and agencies are drawn from the Australian Government Counter-Terrorism Committee members as relevant to each exercise.

(d) (i) (ii) State and Territory departments and agencies have participated in every counter-terrorism exercise since August 2005, depending on the objectives of the particular exercise and where it was held.

**North Korea**

(Question No. 4738)

Mr Melham asked the Minister for Foreign Affairs, in writing, on 10 October 2006:

What representations have been made to the Democratic People’s Republic of North Korea by (a) the Minister for Foreign Affairs and (b) the Department of Foreign Affairs and Trade on behalf of the Aus-
Mr Downer—The answer to the honourable member’s question is as follows:

(a) I called in the Ambassador of the Democratic People’s Republic of Korea (DPRK) on 10 October 2006 to protest vigorously the DPRK’s conduct of a nuclear test on 9 October.

(b) On my instructions, the acting Secretary of the Department of Foreign Affairs and Trade called in the DPRK Ambassador on 4 October 2006 to protest vigorously the DPRK’s public announcement of 3 October 2006 that it intended to conduct a nuclear test.

The First Assistant Secretary, North Asia Division, Department of Foreign Affairs and Trade called in the DPRK Ambassador on 23 August 2006 to warn his government in the strongest possible terms not to conduct a nuclear test or escalate tensions on the Korean Peninsula.

Training Packages
(Question No. 4753)

Ms Macklin asked the Minister for Vocational and Technical Education, in writing, on 11 October 2006:

For the period 2001-2006, how many students were enrolled in (a) Certificate III in Children’s Services and (b) Diploma of Children’s Services.

Mr Hardgrave—The answer to the honourable member’s question is as follows:

<table>
<thead>
<tr>
<th>Students enrolled, by selected training packages, 2001-2005</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>CHC30402 – Cert. III in Children’s Services</td>
</tr>
<tr>
<td>CHC30399 – Cert. III in Community Services (Children’s Services)</td>
</tr>
<tr>
<td>Total Certificate III in Children’s Services</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>CHC50302 – Dip. of Children’s Services</td>
</tr>
<tr>
<td>CHC50399 – Dip. of Community Services (Children’s Services)</td>
</tr>
<tr>
<td>Total Diploma of Children’s Services</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>2001  2002  2003  2,004  2,005</td>
</tr>
<tr>
<td>N/A    N/A    497  9,374  15,345</td>
</tr>
<tr>
<td>8,361  11,596 13,440 5,594  1,276</td>
</tr>
<tr>
<td>8,361  11,596 13,937 14,968  16,621</td>
</tr>
<tr>
<td>N/A    N/A    323  5,271 10,116</td>
</tr>
<tr>
<td>11,125 13,193 13,146 7,410  2,261</td>
</tr>
<tr>
<td>11,125 13,193 13,469 12,681 12,377</td>
</tr>
</tbody>
</table>

Source: NCVER Timeseries Datacubes, 2005

Higher Education Providers
(Question No. 4754)

Ms Macklin asked the Minister for Education, Science and Training, in writing, on 11 October 2006:

How many higher education providers (HEPs) have failed to meet the ongoing quality and accountability requirements set out in division 19 of the Higher Education Support Act 2003.

Ms Julie Bishop—The answer to the honourable member’s question is as follows:

As at 31 October 2006, the Department of Education, Science and Training had written to and was awaiting a response from three higher education providers on the action they propose to take to resolve a matter of non-compliance or apparent non-compliance with some aspect of the quality and accountability requirements. Other issues of non-compliance, including late or incomplete return of information required under the legislation, are raised with providers from time to time.
Sri Lanka
(Question No. 4761)

Mr Murphy asked the Minister for Foreign Affairs, in writing, on 12 October 2006:

(1) Has he read the article by Danielle Vella titled ‘Sri Lanka Nuncio in appeal for missing priest and helper’ and published in the website www.asianews.it on 26 August 2006.

(2) Is he aware that Father Nihal Jim Brown was last seen on 20 August, together with his travelling companion, Vimalathas, at a military checkpoint point outside Allaipiddy, his parish.

(3) Will he support the initiative of the Apostolic Nuncio of Sri Lanka, Monsignor Mario Zenari, in urging those responsible for the disappearance of Father Nihal Jim Brown, to recognise their fault and act accordingly in the safe release and/or return of Father Brown; if so, when; if not, why not.

Mr Downer—The answer to the honourable member’s question is as follows:

(1) Yes.
(2) Yes.
(3) The matter is expected to be the subject of a Commission of Inquiry which the Government of Sri Lanka is in the process of establishing.

Tachographs
(Question No. 4765)

Mr Windsor asked the Minister for Transport and Regional Services, in writing, on 16 October 2006:

Can he explain why coaches and buses are required to be fitted with tachographs, which can be accessed for data on driving times and the speed at which the vehicle is being driven, while trucks are not.

Mr Vaile—The answer to the honourable member’s question is as follows:

The responsibility for regulation in relation to the fitting of tachographs to buses, coaches and trucks lies with the states and territories. There is no Australian Government regulation in this area.

I also understand that New South Wales is currently the only state in Australia that regulates for mandatory fitting and use of tachographs. Broadly, NSW registered vehicles that must have tachographs include:

• All coaches used in the course of trade or business, or for hire or reward, but excluding coaches used exclusively as route service buses on routes of less than 40km, and coaches used only as school buses;

• Also, prime movers and articulated vehicles with a Gross Vehicle Mass or Gross Combination Mass of more than 13.9 tonnes and manufactured on or after 1 January 1991, except for vehicles being used within a radius of 80km from their registered depot unless carrying dangerous goods; and

• All trucks with a Gross Vehicle Mass or Gross Combination Mass of more than 13.9 tonnes carrying dangerous goods.

Australian Technical Colleges
(Question No. 4769)

Ms George asked the Minister for Vocational and Technical Education, in writing, on 10 August 2006:

(1) Further to his response to question No. 3893 (Hansard, 10 October, page 97) in relation to the announcement of the funding agreement for the Australian Technical College in the Illawarra Region,
is he aware: (a) that the only notification received by my office was an email from the Australian Industry Group (AIG) Regional Office at 1.57 p.m. on 2 August advising that the function would take place the following day; (b) that the notification advised that I apologise for this late advice but I have only just been advised that Minister Gary Hargraves [sic] will be visiting Wollongong tomorrow to formally sign the contracts for the establishment of the Illawarra Australian Technical College; (c) that an apology from me was tendered by phone that afternoon advising of my inability to attend due to receiving such late notice; and (d) that the AIG office received my apology, but only passed on acceptances in order for name tags to be prepared.

(2) In view of the facts stated in Part (1), will he apologise for the comments he made in respect of my non-attendance (Hansard, 8 August 2006, page 62); if not, why not.

Mr Hardgrave—The answer to the honourable member’s question is as follows:

(1) (a) The Australian Technical College consortium has advised my Department that they directly phoned the office of the Member for Throsby on Wednesday, 2 August inviting the Member to attend the signing event.

(b) see response to (a) above.

(c) The consortium has advised my Department that they have no record of any apologies being conveyed to them on behalf of the Member for Throsby.

(d) see response to (c) above.

(2) No, the Member for Throsby was invited to the signing event but declined to attend.

Climate Change

(Question No. 4772)

Mr Kelvin Thomson asked the Minister for Agriculture, Fisheries and Forestry, in writing, on 16 October 2006:

In respect of Mr John Ferguson’s statement in the Herald Sun of 19 September 2006 that: “It seems rural Australia has the most to lose from global warming”, has the potential economic impact of climate change upon Australia’s agricultural sector, and agricultural exports in particular, been assessed; if so, what is the result of this assessment and when will the results be released to the public.

Mr McGauran—The answer to the honourable member’s question is as follows:

Within my Portfolio some preliminary research by Australian Bureau of Agriculture and Resource Economics (ABARE) has explored the regional impacts of climate variability on crop farm incomes. This research identified the need to develop more flexible farming systems and better predictive tools to lower the risk of climate change to farmers and encourage greater self management of normal climate variability. These reports are available on the ABARE website at www.abare.gov.au.

Dr John Gee

(Question No. 4774)

Mr Kelvin Thomson asked the Minister for Defence, in writing, on 16 October 2006:

(1) Can he confirm that Dr John Gee’s resignation letter was not distributed by the Department of Defence to other government departments and agencies; if not, to which departments and agencies was Dr Gee’s resignation letter distributed.

(2) Can he confirm that Dr Gee’s resignation letter included reference to his concerns about the methodology of the Iraq Survey Group; if so, what were Dr Gee’s concerns.

(3) Can he confirm that Dr Gee’s resignation letter included the reasons for his decision to resign; if so, what were Dr Gee’s reasons.

QUESTIONS IN WRITING
(4) What action did his (a) department and (b) office take as a result of understanding Dr Gee’s reasons for resignation.

(5) Can he confirm that a copy of Dr Gee’s letter of 2 March 2004 to the Department of Foreign Affairs and Trade was not forwarded by the department to (a) the Department of Defence and (b) his office.

(6) Can he confirm that Dr Gee expressed to the Department of Defence concerns similar to those expressed in his letter of 2 March 2004 to the Department of Foreign Affairs; if so, what were the concerns expressed by Dr Gee.

(7) Will he provide copies of briefing documentation prepared by the department in response to Dr Gee’s resignation letter.

(8) Can he state the current location of the original copy of Dr Gee’s letter of 2 March 2004; if so, with Dr Gee’s permission, will he provide a copy of the letter.

(9) Will he provide a list of those persons who (a) read Dr Gee’s resignation letter and (b) were aware of the contents of that letter.

Dr Nelson—The answer to the honourable member’s question is as follows:

(1) to (9) As was made clear in evidence to the Senate inquiry into The Duties of Australian Personnel in Iraq, Dr Gee wrote to a senior officer in the Department of Foreign Affairs and Trade regarding his wish not to continue working in the Iraq Survey Group in 2004. This letter was not provided to Defence. He did, however, discuss his concerns with Defence and other agencies. For further information, please see the Proof Committee Hansard, Senate Standing Committee on Foreign Affairs, Defence and Trade Estimates (Supplementary Budget Estimates), Wednesday 1 November 2006, http://www.aph.gov.au/hansard/senate/commttee/S9780.pdf.

Dr John Gee

(Question No. 4775)

Mr Kelvin Thomson asked the Minister for Foreign Affairs, in writing, on 16 October 2006:

(1) Can he confirm that he did not, by his action or indication, block the distribution of Dr John Gee’s letter of 2 March 2004 to other government departments and agencies.

(2) Did he take any action as a result of reading Dr Gee’s letter of 2 March 2004; if so, what action did he take.

(3) Can he state the current location of the original copy Dr Gee’s letter of 2 March 2004; if so, with Dr Gee’s permission, will he provide a copy of the letter.

(4) Will he provide a list of those persons who (a) read Dr Gee’s letter of 2 March 2004 and (b) were aware of the contents of that letter.

Mr Downer—The answer to the honourable member’s question is as follows:

As is on the public record, I issued no instructions to suppress Dr Gee’s letter to my department dated 2 March 2004. As is on the public record also, I asked to see Dr Gee in March 2004 as I was aware that he had some concerns about the methodology of the Iraq Survey Group. I subsequently met with Mr Duelfer, then head of the Iraq Survey Group. I discussed Dr Gee’s concerns directly with Mr Duelfer.

My department advises me that it retains copies of Dr Gee’s letter on its files. The author marked the letter and its attachment with the classifications RESTRICTED and IN-CONFIDENCE. The documents were treated accordingly. I read Dr Gee’s letter as did relevant officers in my Department. I understand that other relevant agencies were aware of the contents of the letter and the issues it raised.

QUESTIONS IN WRITING