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SITTING DAYS—2005

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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News Network radio stations, in the areas identified.

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FORTY-FIRST PARLIAMENT
FIRST SESSION—FOURTH PERIOD

Governor-General

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

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert
Deputy President and Chairman of Committees—Senator John Joseph Hogg
Leader of the Government in the Senate—Senator the Hon. Robert Murray Hill
Deputy Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin
Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans
Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy
Manager of Government Business in the Senate—Senator the Hon. Christopher Martin Ellison
Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders and Whips

Leader of the Liberal Party of Australia—Senator the Hon. Robert Murray Hill
Deputy Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin
Leader of The Nationals—Senator the Hon. Ronald Leslie Doyle Boswell
Deputy Leader of The Nationals—Senator John Alexander Lindsay (Sandy) Macdonald
Leader of the Australian Labor Party—Senator Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy
Leader of the Australian Democrats—Senator Lynette Fay Allison
Leader of the Family First Party—Senator Steve Fielding
Liberal Party of Australia Whips—Senators Jeannie Margaret Ferris and Alan Eggleston
Nationals Whip—Senator Julian John James McGauran
Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber
Australian Democrats Whip—Senator Andrew John Julian Bartlett

Printed by authority of the Senate
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(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. John Joseph Herron, resigned.
(2) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.
(3) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(4) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Susan Mary Mackay, resigned.

PARTY ABBREVIATIONS
AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Labor Party; FF—Family First Party; LP—Liberal Party of Australia; NATS—The Nationals

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

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**HOWARD MINISTRY**

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

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<td>Senator the Hon. Ian Douglas Macdonald</td>
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<td>The Hon. Joseph Benedict Hockey MP</td>
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<td>Minister for Citizenship and Multicultural Affairs</td>
<td>The Hon. John Kenneth Cobb MP</td>
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<td>Minister for Local Government, Territories and Roads</td>
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<td>The Hon. Christopher John Pearce MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
<td>The Hon. Gregory Andrew Hunt MP</td>
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<tr>
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<td>The Hon. Sussan Penelope Ley MP</td>
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<tr>
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<td>The Hon. Patrick Francis Farmer MP</td>
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<td>Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry</td>
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Leader of the Opposition  The Hon. Kim Christian Beazley MP
Deputy Leader of the Opposition and Shadow Minister for Education, Training, Science and Research  Jennifer Louise Macklin MP
Leader of the Opposition in the Senate, Shadow Minister for Indigenous Affairs and Shadow Minister for Family and Community Services  Senator Christopher Vaughan Evans
Deputy Leader of the Opposition in the Senate and Shadow Minister for Communications and Information Technology  Senator Stephen Michael Conroy
Shadow Minister for Health and Manager of Opposition Business in the House  Julia Eileen Gillard MP
Shadow Treasurer  Wayne Maxwell Swan MP
Shadow Attorney-General  Nicola Louise Roxon MP
Shadow Minister for Industry, Infrastructure and Industrial Relations  Stephen Francis Smith MP
Shadow Minister for Foreign Affairs and Trade and Shadow Minister for International Security  Kevin Michael Rudd MP
Shadow Minister for Defence  Robert Bruce McClelland MP
Shadow Minister for Regional Development  The Hon. Simon Findlay Crean MP
Shadow Minister for Primary Industries, Resources, Forestry and Tourism  Martin John Ferguson MP
Shadow Minister for Environment and Heritage, Shadow Minister for Water and Deputy Manager of Opposition Business in the House  Anthony Norman Albanese MP
Shadow Minister for Housing, Shadow Minister for Urban Development and Shadow Minister for Local Government and Territories  Senator Kim John Carr
Shadow Minister for Public Accountability and Shadow Minister for Human Services  Kelvin John Thomson MP
Shadow Minister for Finance  Lindsay James Tanner MP
Shadow Minister for Superannuation and Intergenerational Finance and Shadow Minister for Banking and Financial Services  Senator the Hon. Nicholas John Sherry
Shadow Minister for Child Care, Shadow Minister for Youth and Shadow Minister for Women  Tanya Joan Plibersek MP
Shadow Minister for Employment and Workforce Participation and Shadow Minister for Corporate Governance and Responsibility  Senator Penelope Ying Yen Wong

(The above are shadow cabinet ministers)
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Tuesday, 29 November 2005

The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 12.30 pm and read prayers.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (12.30 pm)—I move:

That government business notice of motion no. 1 standing in his name for today, relating to the consideration of legislation, be postponed till a later hour.

Question agreed to.

WORKPLACE RELATIONS AMENDMENT (WORK CHOICES) BILL 2005

Second Reading

Debate resumed from 28 November, on motion by Senator Abetz:

That this bill be now read a second time.

Senator NASH (New South Wales) (12.31 pm)—The workplace relations reform legislation being put forward by the Howard-Vaile government is sensible and practical. In spite of the scaremongering we have heard from those opposite, this government is taking the right steps to take this nation forward, and this legislation will ensure Australia’s prosperity into the future.

I took part in the hearings of the Senate Employment, Workplace Relations and Education Legislation Committee into the provisions of the Workplace Relations Amendment (Work Choices) Bill 2005. Listening to the statements and the questioning of and answers from 105 witnesses who appeared at the week-long hearings has strengthened my understanding of Australia’s workplace relations landscape. I have to say that I am satisfied by what I have heard to date, and I am satisfied with the direction in which the Work Choices legislation is taking this nation. Despite views to the contrary from those opposite, I believe the Work Choices legislation will be good for Australia.

We have been debating in this place and in the court of public opinion the Liberal-National government’s industrial relations reform agenda for a very long period of time. The Work Choices legislation is not something akin to a magician pulling a rabbit out of a hat. It has not just appeared out of nowhere. We outlined the government’s proposal for Work Choices some six months ago, back in May. We started providing more detailed information to the Australian public on Sunday, 9 October. The legislation was introduced into the other place by the Minister for Employment and Workplace Relations earlier this month on 2 November. As the Prime Minister told ABC’s AM program yesterday morning:

Many of the issues have been debated for months, for years—unfair dismissals—it’s been around for years. So this idea that it’s all new and isn’t terrible that the Government would like to have it passed by Christmas, I don’t think that’s valid at all.

The Prime Minister is spot on. The outrageous claims made by those opposite and their union masters are just not valid at all. Australia currently has six different industrial relations systems, more than 130 pieces of industrial relations legislation and more than 4,000 awards. There is too much red tape, and it is too hard for employers and their workers to make agreements that suit their individual circumstances.

Earlier this month, I highlighted to the Senate a report by the World Economic Forum that showed that Australia had climbed from 14th to 10th in the World Economic Forum’s 2005 competitiveness ranking. The report said Australia moved up four places because of, among other things, its sound public finances and the innovative nature of
its business sector. Discouragingly, Australia ranked only 77th on flexibility of wage determination and 75th on hiring and firing practices. Work Choices will get rid of the red tape and provide choice in the workplace. Work Choices should also see Australia rise up the World Economic Forum’s rankings in the coming years in the areas of flexibility of wage determination and on hiring and firing practices.

I want to make it clear that the bill reflects the National Party’s policies. In 2003, our federal conference passed a resolution that read, in part:

The Nationals believe that employees and employers should be allowed to work together to improve working conditions and productivity. It is only when voluntary agreements and freedom of choice replace coercion and rigid prescriptive rules that work satisfaction, productivity and national economic potential will be recognised. The Nationals’ objective is to ensure Australian workers receive higher pay in more productive workplaces. The Nationals support:

- Enhanced flexibility in the workplace and measures that reflect the balance between family and work responsibilities;
- Minimum conditions for agreements to ensure protection, especially for the low paid.

Recently, in September this year, The Nationals federal council passed a resolution that specifically supported the workplace relations reforms. The resolution was passed unanimously, and it stated:

That this Federal Council of The Nationals supports the underlying principles of the Commonwealth Government’s announced proposals for further workplace relations reform and calls for the early release of the detail so that the union movement’s scare campaign can be effectively nullified.

Work Choices will establish a national workplace relations system. The legislation will cover up to 85 per cent of Australia’s workers. Unincorporated businesses such as many family farms that are in the federal system and want to stay there will have a transition period of five years to incorporate. Under Work Choices, it will be simpler to make workplace agreements. They will take effect as soon as they are lodged with a statutory declaration, instead of the time-consuming certification and approval process we have now.

All agreements will have to comply with the new Australian fair pay and conditions standard, which will include the 38-hour week, annual leave, personal and carer’s leave and parental leave. The standard will also include the minimum and award classification wages set by the new Australian Fair Pay Commission. The Fair Pay Commission will replace the adversarial process of setting minimum wages with a consultative approach that takes into account the need to create jobs for the unemployed. Work Choices will protect award conditions such as public holidays and penalty rates when new agreements are negotiated. I want to stress to the Senate that these award conditions can be removed only if an employee specifically agrees to change them in an agreement.

Importantly, the new system will create jobs for the most marginal people in the work force by exempting companies with 100 or less employees from the unfair dismissal law. Unfair dismissal laws currently provide disgruntled employees with the opportunity to take legal action on their way out, even if their dismissal was totally justified. Today it can cost employers up to $10,000 to defend against the most worthless of claims. For years now, as I have travelled around different rural communities right across New South Wales—places like Tweed Heads, Tamworth, Temora and Tumut—small business owners have been saying to me, ‘We’d put more people on, but we just can’t do it because we can’t afford an unfair
dismissal claim if it doesn’t work out.’ This is happening right across the state. Everywhere I travel, employers are not game to put people on because of the current system.

Work Choices will exempt businesses with up to 100 employees from the burden of these laws. Work Choices will be good for those in small business, both employers and employees. All employees will continue to be protected from unlawful termination on grounds such as their race, sex, religion, politics or membership or non-membership of a union. I take exception to claims raised by those opposite and their union masters that all employers are bad and that they will use the Work Choices legislation to do the wrong thing by workers. In every box of apples you might get one or two bad apples, but that does not mean all the apples in the box are bad.

It would be wrong of me to suggest that there are no bad employers, but I have not come across them in my travels. On the contrary, it is in an employer’s best interests to have a happy and harmonious workplace. They want to keep their good employees and they will take extraordinary steps to retain them. As Senator Boswell said yesterday, when he was an employer in small business he went to great lengths to keep staff, even paying for their children’s weddings and letting them pay it back out of their pay over time. Senator Boswell is right: the cost of firing and rehiring in terms of lost investment in training and skills is so high that no employer would do it unless he or she was really faced with an unworkable situation.

The Work Choices legislation recognises that the workplace landscape has changed. Take supermarkets, for example. It was not that long ago that supermarkets had limited trading hours on a weekend, restricted trading hours on a Saturday, and shut up shop entirely on a Sunday. Things are very different now. Most supermarkets are open seven days, while many, particularly in city areas, are open 24 hours a day. Employers and employees need to be flexible to meet changing consumer demand. Take Christmas trading, for example. In an effort to meet consumer demand, some shopping centres go so far as to stay open all day and all night in the lead-up to Christmas to satisfy consumer demand during this busy time. We need a system that evolves with the very environment it is set up to support. Work Choices meets that demand. Employers and employees need a situation where both can negotiate a working arrangement that best suits everyone. Work Choices meets that demand. It is all about being fair, flexible and feasible. Work Choices meets that demand.

As a farmer, I know first hand how busy this time of year can be for farmers. In between harvesting crops and bailing hay, many farmers are also juggling other necessary jobs like livestock maintenance and the general and ongoing responsibilities that come with working on the land. Depending on the size of the property, many farmers simply cannot manage the job alone.

Opposition senators interjecting—

Senator NASH—Perhaps if senators opposite listened, they might learn something. But farmers do manage the job alone, because they cannot afford to go down the path of a possible unfair dismissal claim, not just in a financial sense but also in the sense of the time it takes—time that takes them away from running the farm. I am confident Work Choices will lead to an increase in agricultural productivity, leading to greater prosperity. Farmers could in turn expand their business, both domestic and export. This will lead to jobs growth in rural and regional Australia—something that is very important to this side of the Senate but obviously not to the other.
The Howard-Vaile government will make the Australian workplace relations system fairer and provide a better balance in the workplace for employees and employers than currently exists. Unlike Labor, the Liberal-National government has a plan to reform the workplace, to stop the confusion that exists with myriad pieces of legislation, some of which I referred to earlier, and awards that exist right across the country. The Howard-Vaile government has Work Choices; Labor has nothing, nyet—not a thing. As I said at the start, this workplace relations reform, Work Choices, being put forward by the government is sensible, it is practical, it will allow greater flexibility in the workplace and it will ensure that Australia’s productivity grows into the future.

Senator Hogg (Queensland) (12.42 pm) —I rise in this debate today on the Workplace Relations Amendment (Work Choices) Bill 2005 with a fair deal of experience in the industrial relations area. Not only am I a proud trade unionist but I have been a proud trade union official over a long period of time—

Senator Boswell—With all your mates over there—all your mates.

Senator Hogg—And very proud of it, Senator Boswell. I have also been associated with the largest union in Australia, the Shop, Distributive and Allied Employees Association, for almost 30 years. I have seen both good and bad employers. Let me say that it is because of the bad employers that I am in the position that I am in today. I am glad that we are having this debate on this bill. I am not going to get into the essence of the bill because it is just a muddle, as I will point out as time goes on. The fact is that I have been involved in the trade union movement—and have been active as a trade unionist—over a long period of time. It is not just solely because of something that has been pumped into me; it is because of my belief system and my belief pattern. The belief pattern and belief system I have is for justice, fairness and equity, which is quite at odds with what I believe our opponents in this debate are putting up.

My beliefs have been built up over a long period of time based on a set of moral and social values. The ideological debate that we are having on this bill is substantially important indeed, because there is the defining point between what we believe in and what those on the opposite side believe in. I come from the school of thought—and I said this in my first speech—that believes in a preferential option for the poor. I do not just believe in an option for the poor; I believe in a preferential option for the poor. If you get out there you will find that a number of those people, and a number of the various churches, are espousing the same theme.

The reason is that the poor are the people least able to defend themselves and least likely to be able to defend themselves. Therefore, I make no apology for standing up for those who are in the most vulnerable position in our community. I believe that these people deserve to be protected. Many of them are young, many of them are women, and many of them are unskilled or in low or semiskilled positions in our workforce. Many of them find it difficult because of their lack of skills, their lack of training, to break back into the work force or to get into the work force in the first place. I believe in the fundamental protection of these people and in their right to dignity within our community.

These people invariably find themselves in a very inferior bargaining position. I am not talking about those who are in cherished positions in our community—those in positions of power. I am talking about those who are most vulnerable. Unlike a number of others on the other side, I would imagine, but like many of my colleagues, I have known
what it is like to be poor. Let me assure you, Madam Acting Deputy President, there is no fun in it at all. It is a most unhappy state of life to find oneself in. But if one looks at what this government says, one sees that it is quite happy to confine people to that state of living, to that state of life.

With respect to what the government is trumpeting about wages, for example, I say this: try to live on the current minimum weekly wage of $484.40—if you have a full-time job, that is. It is no fun at all. There is no pleasure at all in struggling to pay the bills, to pay the rent and to meet the demands of the family, in spite of the additional payments that people are entitled to. If the federal government had had its way in the national wage cases since 1996, that figure of $484.40 would now be $50 a week less—that is, $434. So if you think $484.40 is hard to live on, try to live on $434.40—if you can get a job paying the full-time rate in the first place.

The fact is that intrinsically there is no shame in being poor. There is nothing wrong with being poor. But there is no need to try to make the poor feel shame. There is no need to try to make the poor feel they are in some sort of inferior and lowly position because they do not have the skills and the wherewithal that those in positions of power in our community have at their disposal. It is wrong to put in place structures that condemn people to ongoing poorness, as this bill will. I know that because of my long experience in the trade union movement. I have seen people mistreated and abused in their employment over a long period of time, confining them to a poor state in life.

One of the interesting propositions that has come up in this debate is that modernising the workplace relations legislation will somehow alleviate the poverty and the poorness that many people find themselves in. I say to the government: you cannot modernise poverty or being poor. Being poor is a state which has no favour to it and it is something that I would not advocate for anyone, yet the government, through the Work Choices bill, seems to be quite prepared to allow people to slip back in this way.

The individual, as I have always advocated, is entitled to his or her dignity, just as the family is entitled to its dignity. Dignity of the individual or the family is the most important thing for people in vulnerable positions and it is something that should not be subject to the social experimentation which I believe is advocated in this bill. Those with a social justice conscience—and I am talking about a true social justice conscience—say that the poor are entitled to their dignity by having a fair share of the common wealth that our society generates. The underlying element of natural justice is that any agreement to work should provide sufficient wages to the individual and should allow the individual to sustain a fair and reasonable life and lifestyle. What is advocated by Work Choices does none of that whatsoever. I believe that we as a society have a moral obligation to the poor, and those are the people, as I said, who are the most vulnerable.

Solidarity is not necessarily a word that is understood by those opposite. It is clearly understood by those on this side. It involves not only an empathy with and an understanding of the position of those people but a preparedness to see that their poverty traps, their poorness, is not something that is ensconced in our society and is not something that they cannot break out of. Solidarity helps us to see the other person not just as some kind of instrument with a work capacity and physical strength to be exploited at low cost and then discarded when no longer useful, but as a human being. And that is the defining difference, I would put to you, Madam Acting Deputy President, between those on this side...
of the chamber who share similar views to mine and those on the other side.

What about the bill itself? I have read a number of industrial relations bills over a long period of time. I have read many opinions in preparing to appear before the industrial commission. But when I read this bill—and the bill is a weightlifter’s delight; it certainly keeps one well and truly exercised—I found it to be almost unintelligible. I think it is giving it high praise to say it is unintelligible. It is difficult to read. It is not a document that can be read in isolation; it needs to be read in conjunction with the existing act, as well as with a set of regulations which we have not yet sighted.

In trying to understand this legislation—which I think is more than some of those on the other side who sat on the committee which examined this bill tried to do—the explanatory memorandum was not much help, as I thought it made the meaning of the bill as clear as mud. The bill, which is trumpeted as something that will simplify everything, is not simple at all. The other thing it does is to destroy much previously established legal precedent on which the current system relies and which has created certainty. That is something that has been glossed over, but it is very important when it is seen that there is no real definition of ‘full-time employment’, ‘part-time employment’ or ‘casual employment’ in the legislation. It is really a matter of throwing it up in the air and hoping that, when it comes back down, you can work out what it means.

The bill is a race to the bottom for wages and conditions. The bill also removes any predictability and certainty in employment, and the most important and fundamental thing that people want out there in our society today is security in employment. By security in employment, they mean the right to a full-time job where they need that job. That is not being given to them. That has been denied to many people even under the existing regime over a long period of time by the practices that are used by employers in employing people—not all employers but those who choose to exploit the loopholes to make people’s lives a misery. People are unable to get full-time employment. They are condemned to casual and part-time employment at the whim and fancy of the employer. They find themselves in a completely uncompetitive state when it comes to getting things such as home loans because they do not have security of employment.

The bill creates an unequal relationship clearly biased towards the employer. Ironically—and this will make a number of people smile—it achieves what the radical Left of politics tried to achieve in the 1960s by destroying the independent umpire, the Australian Industrial Relations Commission. So here we have the extreme Right linking up with the radical Left. Heavens to Betsy! Now we know we are on the wrong tram! Last but not least, the bill smashes any hope of security of employment by invoking harsh and unconscionable unfair dismissal laws. If anyone had any doubt about my opinion on the bill, they should have realised by now that I believe it is an absolute waste of time, has no merit whatsoever and should not have been presented to this chamber with any reasonable conscience by any person.

One of the things that have been said by our opponents on the other side is that we say the passage of this bill will see the sky fall in overnight. I have never said that and I know many people on this side have never said that. That is not what is going to happen. Those people who are in powerful, secure or privileged positions will remain so. Also, the vast majority of people who are on certified agreements and who are covered by awards will find themselves protected for a period of time, but that protection will run out. How-
ever, there are unscrupulous employers out there who will seek to exploit the terms of this bill over time, and I suspect some are queuing up now and will be actively encouraged by the government’s agent, the Employment Advocate. The other notion that comes out of this is that a worker will be able to front for a job with a bargaining agent. That is an absurdity in its own right. People who advocate that are just out of touch with reality as to what happens in the real world.

One of the fundamental rights that will be gone under this bill will be the right to standard hours over five days. The employer will have the right to work people over six or seven days. So someone currently employed as a casual working 35 hours a week on no more than five days will now be able to be rostered over six or seven days. Seven days of five hours! What a great step forward that is! There is nothing in that for the individual whatsoever. It is obviously to serve the employer only. There is no guarantee of continuous hours of employment. In other words, they can say: ‘Turn up to work and maybe come back in a few hours when we need you. Oh well, that’s bad luck. You’re at the end of the food chain in terms of conditions.’

With regard to rostering, there will be no regular starting or ceasing times and no minimum break between the finish of one shift and the next start. There will be nothing to say that you cannot have two or more starts in a day and there will be no maximum hours of work on any day. In spite of what is being said by some, there will be no guarantee of penalty rates and shift loadings for working at unsociable times, which is what people do. They work at those hours because, invariably, they are in low-skilled, unskilled or semiskilled areas and they are on low wages. The only way they build their wage is by using penalty rates. Over time, these will diminish because there will be no obligation: it is not one of the five basic award matters that need to be included in any AWA that is put forward by the employer.

Over time, things such as the 17½ per cent leave loading and the definition of ‘class of employee’—that is, whether they are full time, part time or casual—will be gone. There will be no difference between a part-timer and a casual because there is nothing to define any difference between them, other than a supposed casual loading, which can be avoided by simply employing someone as a part-timer. Given that the bill expressly prohibits any maximum and minimum hours of work for regular part-time employees, those employees can be worked at the will and at the disposal of the employer. So there are some very fundamental rights that will be gone. But they will not be gone overnight; they will be gone with the effluxion of time, with the passage of time, when people are handed an AWA and are told to accept the AWA or they will find themselves unable to remain in the employment, for some very unseemly reason created by the employer.

I have only mentioned a few conditions that I have picked out of the bill thus far but there are many more that will be affected as well—things such as the day of the week on which people are paid. In the report, the government members said that people had to be paid an average of 38 hours per week. Well, whoopy-do. It still does not stop the employer from changing the payday on which people are paid. It does not stop the employer from holding back pay in any week. These are fundamental things that have been negotiated over a period of time to give people a template on which there is a degree of certainty in their work, a degree of certainty in their lifestyle and a degree of certainty for their families. This is being totally stripped away. To say anything else does not reflect what is in that legislation.
When it comes to the making of the AWAs, one finds that the no disadvantage test uses five measures, as against the current award standards. This will cause in the longer term a powerful economic incentive for employers to gain an advantage over their competitors, and this will lead the race to the bottom. The race to the bottom will not start out instantaneously. It will start out incrementally with a number of employers exploiting the provisions that are in the bill. Then, as time goes on, others, good employers, will find that they are in a disadvantageous position and they will have to either take a step to move to lower conditions and meet their competitors or go out of business. At the end of the day, when confronted with these workplace agreements, people will have no choice but to sign them. That is the reality. This will not lead to greater employment, as is often advocated by those opposed; it will undoubtedly lead to greater profits for the employer.

The union that I am associated with had some contact with a young person subject to an AWA in the fast food industry earlier this year. The person was basically given the option of signing the AWA and having a chance to get promotion within that company or not signing the AWA and having no certainty of hours and no certainty of employment. When the union did the assessment of this person’s prospects, they worked out that she was going to be at best $58.62 per week, or $2,800 per year, worse off and at worst $319 per week, or $15,000 per year, worse off. But at the end of the day this person was left with no choice but to sign the AWA or to get no hours and have no chance of promotion. That is what this bill is about. It is about forcing those people in low-skilled and semiskilled areas into untenable positions. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (1.02 pm)—I want to make only a brief contribution to this debate today on the Workplace Relations Amendment (Work Choices) Bill 2005 but make a few important points. When any government girds itself for a battle of reform, naysayers, doubters and profiteers of the status quo swarm out of the woodwork, downplay the need for change, criticise the expected outcome and repudiate the motives of the people who are embarking on a brave and sometimes uncertain course. We know that is the usual run of things. We have seen that a number of times in the last 10 years as this government has embraced a range of reforms in a number of key areas. This debate on industrial relations reform is no exception. I think it is important, however, as we undertake this debate that we look at the bigger picture lest we lose sight of the underlying tectonic forces that have to be addressed as this debate goes on.

Since 1996 the Howard government has delivered prosperity to Australia. Unemployment is lower today than it has been in decades, our interest rates are at a historic low and Australians are working more productively and more intelligently. This is the simple reason that we have that prosperity today: the government has pursued a sustained and carefully managed agenda of economic reform, which it has outlined systematically to the electorate in each and every term of office that it has been elected. I think the Australian people in large measure understand what the government is trying to do, they have a clear sense of its policy and its direction and they understand that its policies in the past have delivered a growing economy, the creation of jobs and the maintenance of prosperity. I think that in this debate a measure of acceptance is available to the government from the Australian people of its capacity to deliver more of that positive change.
In the face of Australia’s current success, many interest groups, of course, assume that enough is enough and that past reforms have been sufficient to push Australia over the winning line. These interest groups mistakenly believe that the race has been won and we can now stand proud with a first place ribbon pinned to our chest. It is a very comforting and beguiling point of view. Unfortunately, the world does not actually stand still. We are engaged in a global economic competition, with prosperity and security waiting at the podium. This is a race with neither finishing line nor pit stops. To shift the racing analogy to a nautical context, the Australian ship of state must not let the wind out of its sails. Neither through inactivity nor poor seamanship can Australians afford to have the wind stolen from our sails.

What steps have to be taken at this time? Let me bring to your attention, continuing the nautical analogy, an anecdote relating to Napoleon Bonaparte. An inventor came to Napoleon with a design for a steam engine that could be installed on sailing ships. One can imagine what advantage such a vessel would have created for Napoleon, who was attempting to move his Grande Armée from the shores of France to England. The capacity to do so without the vicissitudes of waves, wind, tides and so on would have been very considerable. But Napoleon said to this inventor, ‘What? You want me to make a ship sail against the wind by lighting a fire under its decks? I don’t have time for this nonsense.’ We know the story of Napoleon’s fall from continental domination to insular imprisonment.

For those who are opponents today of change, I make the same point. The government’s proposed reforms are a step into a new phase of activity. The old ways, though they may have served us in the past, are not sufficient to maintain our place in the world. Australia has always been a land of potential and, if we are to continue to tap that potential, we must continue to reform and evolve the way we do business. It is painful but it is necessary. For Australia to avoid economic failure at this juncture, it simply has to embrace industrial relations reform.

Senator Hogg, in the course of his remarks, talked about the prospect of what he called ‘poorness’ for Australians at this point in time, the prospect that industrial reforms could deliver Australians into poverty. Will the Labor Party admit, in this debate today, that the changes the government have already made in the economy and in the industrial system have built up a stronger, more diverse economy than was the case before, that there are higher levels of employment and lower levels of unemployment and that the real wages of Australia today are substantially higher than they were when we took government in 1996? Under the Labor Party, real wages rose by something like two per cent over 13 years—

Senator Kemp—Just under.

Senator HUMPHRIES—It was just under two per cent, I am reminded by the minister. In less time than that, in fewer than 10 years, they have risen by close to 15 per cent in real terms. That is because of a sustained agenda of industrial and economic reform. Reform is on its way and, indeed, reform was begun, in some respects, by our predecessors—

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT (Senator Moore)—Order! I cannot hear Senator Humphries.

Senator HUMPHRIES—The process of reform was, in many respects, begun by our predecessors, by Prime Ministers Hawke and Keating. They made important steps towards changing the nature of the workplace, and we have continued down that path.
I can understand the sustained attacks on the reforms delivered by union leaders. They fear that these reforms will sideline unions and make them redundant. That is, I believe, a view that shows how fundamentally entropic unions have become, as have their parliamentary representatives in this place, in recent years. As long as unions remain useful to their constituents, to the people who belong to them, they will remain relevant into the 21st century. But in many respects they face an important juncture here as well. What role will they have? What interests of their members will they serve in the new environment? They will need to focus on those questions.

The fact is that some unions have behaved in an extremely short-sighted—myopic—way in the light of these reforms. For example, in my electorate, I had the Independent Education Union come to talk to me about the reforms. I was very happy to sit down and discuss with them what they saw as the problems with this legislation. I had a discussion with them that went for quite some time and that union’s representatives went away. A few days later, I was stunned to discover that an account of our conversation appeared on a web site that was heavily distorted, that misrepresented the things that I had said and that used the opportunity of a discussion with me as a chance to strike a propaganda blow, for what it was worth, for people who might have cared to visit that web site. That is typical of the behaviour which some trade unions have engaged in during this debate. That kind of behaviour tells me that the mission the government has embarked on here is the right one. If they need to resort to those sorts of tactics, they clearly have a vested interest which is absolutely at risk and which has nothing to do with the interests of their members, who want to get higher wages and better, more productive workplaces.

The opposition need to understand that the things that they talk about as being fundamental entitlements in the workplace, the things that they say deliver a degree of certainty, as Senator Hogg put it, are things that in fact already do not exist as a certainty for many people in workplaces. They live in environments where they have to negotiate arrangements which suit them and their employers. That is the way of the future. It is the way our competitor nations are going and the way that we also need to go. I want to say that the argument about this being a race to the bottom is pure nonsense. The evidence of that fact is that, as we clearly know now, Australia is facing mammoth and serious work force shortages. With key industries not being able to find enough people to fill positions in key sectors, it is simply nonsense to suggest that these reforms will somehow lead people to getting lower wages and worse conditions. The boot is very much today, and it will be in the future, on the foot of the employee. These reforms will allow not just employers but also employees to make arrangements which are advantageous to the workplace concerned.

Interest groups have criticised our reforms. Again, I feel this is a case of not seeing the wood for the trees. Australia’s economy must become more flexible to meet the challenges of the 21st century. The federal government is running the good race to secure that prosperity for Australians, and these IR reforms are just one more step that needs to be implemented to achieve that. Refusal to reform will not mean the negation of change. It will simply mean disadvantage to all Australians when that change arrives.

Senator WEBBER (Western Australia) (1.13 pm)—As a senator from Western Australia, I come from the state that probably has the most recent and most detailed experience of the legislation currently before us, the Workplace Relations Amendment (Work
Choices) Bill 2005. The Howard government has begun what in my mind is the biggest attack on Australian workers in decades. The so-called Work Choices package is not about choices at all. It is about forcing people onto individual contracts, forcing people to give up their hard-earned working conditions and forcing people to work family unfriendly hours.

We did not hear Mr Howard talking about any of this last year when people were trying to decide who they would vote for. That is because he knew that the Australian people would know what his term ‘flexibility and modernising’ really means: giving more power to the boss at their expense. We did not hear Mr Howard telling people that he was going to try and smash the unions, attack the independent umpire—the Industrial Relations Commission—and remove the basic concept of fairness from the minimum wage.

After the election, Mr Howard said that the government would not let its new Senate power go to its head. ‘No hubris,’ he said. What a joke. It did not take long before this arrogant government started to push its ideological barrow. It now wants to allow big business to make secret donations to political parties, it wants to make it harder for ordinary voters to get on the electoral roll and it wants to hand control of the media to a few moguls. Most of all, it wants to Americanise the industrial relations system in Australia. It wants to overturn decades of progress by Australian employers and employees in order to impose an American-style cowboy system on us all.

If you ignore the $55 million propaganda campaign—and thankfully most people did ignore it, according to the polls—and look at the details of this legislation, there is nothing in it for ordinary working men and women. Almost every provision strips people of pay, of conditions or of their rights. Mr Howard wants to make it legal to sack Australian workers unfairly—not just for businesses with fewer than 100 employees, but for every business. All they have to do is say that they were sacked for ‘operational reasons’—and the teams of corporate lawyers are already planning how to get through that loophole. Don’t you worry about that. So, if the boss gets up on the wrong side of the bed, it is: ‘See you later.’

Mr Howard wants to make it easier to cut people’s pay and conditions. No-one should believe the ‘protected by law’ nonsense. In the Work Choices booklet, the government actually lets the cat out of the bag: all the boss has to do is tell you what he is taking away. On page 15 of the booklet, we read about a job seeker called Billy who is offered an AWA, on a ‘take it or leave it’ basis, that explicitly removes award conditions for public holidays, rest breaks, bonuses, annual leave loadings, allowances, penalty rates and shift/overtime loadings. So much for ‘protected by law’. There are a whole host of other things that will hurt Australian workers. The new ‘low pay commission’ will erode wages over time. Legitimate trade union activity will be made illegal, and union organisers will probably be sent to jail.

The Minister for Employment and Workplace Relations will have the power to ban anything from being included in an agreement and will fine anyone who even talks about including prohibited content. So much for choice. New businesses can run for five years without ever negotiating with their employees. The Industrial Relations Commission—the independent umpire that Australian workers have relied on for so long—will be sidelined and the no disadvantage test for contracts will be abolished, which can mean only one thing: the government wants workers to be disadvantaged. All of this adds up to an extreme industrial relations system, and ordinary workers will suffer.
In Western Australia we know exactly how it will work, because we suffered through the system imposed by Richard Court and Graham Kierath—a system that was rejected at the 2001 state election. That is the model for the Howard government’s changes, so we need to remember exactly what happened in Western Australia. The Australian Centre for Industrial Relations Research and Training, one of the nation’s most highly respected industrial relations research organisations, recently conducted a study of the old WA Liberal Party system. Its findings were shocking. The minimum weekly wage in Western Australia fell to $50 per week below the national average; 56 per cent of all workplace agreements provided an ordinary rate of pay below the award rate; 67 per cent of workplace agreements did not include overtime rates of pay; 74 per cent of agreements provided no weekend penalty rates; 75 per cent of agreements did not have a pay increase provision, which we all know means that your pay is eroded over the life of the agreement, which can be anything up to five years; and 77 per cent of casual workers were paid below the award rate. So much for ‘No-one will be worse off.’

This is the extreme system that Mr Howard wants to impose across Australia. He wants to cut wages and slash conditions, just like Richard Court and Graham Kierath did. Industrial relations in Western Australia have inspired much of the so-called Work Choices package, especially industrial relations in the north-west of my home state. Aggressive employers have used the Pilbara, especially over the last 20 years, as a testing ground for introducing American anti-union tactics into Australia. The goal of these militant multinational corporations was described in the confessions of an American union buster, who said:

The enemy was the collective spirit. I got hold of that spirit while it was still a seedling. I poisoned it, choked it, bludgeoned it if I had to, anything to be sure it would never blossom into a united work force.

This is coming to every workplace in Australia. Companies like Rio Tinto had a tougher job than this man, because their goal was not just to prevent the development of a united work force. Their goal was to destroy the collective spirit that had been well established throughout the Pilbara. They had to poison the solidarity of their workers, choke community relationships and bludgeon individual unionists.

Individual contracts are the most important weapon in the anti-union arsenal. When the Court-Kierath government introduced workplace agreements in 1993, it was the signal for Rio Tinto to step up its attacks on its workers’ freedom of association—beginning with its operations at Hamersley Iron. In 1993, Hamersley Iron stopped talking to the unions, either in the context of negotiations or in the context of investigations into disputes or safety concerns. There was what a staff member of the Office of the Employment Advocate has called a blanket refusal to deal with union representatives. Union members were purged from the company’s working parties and task groups. The company established a ‘Christmas hit list’ of union delegates and paid them generous go-away money if they would stop fighting for their coworkers’ rights. It was made clear to them that the company would make their lives a misery if they stayed, and that was no joke. At Tom Price, for example, only one union convenor refused to take the package, and he was subsequently sacked.

Hamersley began to introduce workplace agreements and refused to bargain with union representatives. In fact, they really refused to bargain with employees too. The workplace agreements were ‘take it or leave it’ deals. These new contracts included sweeteners to buy people’s acceptance but
they were designed to cut pay over time. The Office of the Employment Advocate’s Julie Tracy said:

With a labour turnover rate running at between 15-20 per cent each year at its inland towns Hamersley has been able to reduce labour costs since the introduction of individual agreements by increasing hours of work faster than pay increases...

By 2000, comparisons between Hamersley/Robe employees on individual agreements and BHPIO award employees showed a marked difference in earnings.

Wages and conditions at Hamersley Iron deteriorated so badly that, in 2001, 80 per cent of Hamersley’s employees publicly stated that they would not sign any more individual agreements and that they wanted to return to collective bargaining.

But this is not the only example of Rio Tinto using militant tactics to deny its workers their right to collective bargaining. It was only a few weeks ago that Mr Howard answered a question in the other place by referring to the ‘well-known case’ of 16 Blair Athol workers. The Prime Minister said Work Choices would ‘clarify the situation’ that Rio Tinto faced at Blair Athol in Queensland. I must thank the Prime Minister for this rare moment of honesty, because if we take a look at the Senate submission made by 151 academics they make it quite clear what happened at Blair Athol and they make it quite clear how Work Choices will clarify the situation. They tell us:

In 2001 the AIRC found that Blair Athol management had created a ‘black list’ of union members who were ‘singled out for termination’ via a redundancy process. Mine management ‘went about demeaning’ those targeted for termination; for example they were ‘allocated menial tasks such as chipping weeds with a hoe rather than using a weedicide as was normally the practice... and painting tyres with a broom as opposed to spray painting which was the normal practice’.

The ‘strategy’, which according to the AIRC ‘could be likened to ‘blood sport’’, was ‘designed to force (unionists) to accept the redundancy package’. Management introduced a performance appraisal scheme which had ‘no procedural fairness or due process’ and in which a group of unionists were denied ‘opportunities to perform work which would have provided an opportunity to have improved their...rating’. It was then used as the basis for dismissing the 16 workers. Only a ‘whistle blower’ witness revealed the existence of the ‘black list’. The situation experienced by the workers is detailed in research analysis. This case was pursued by the workers under the unfair dismissal provisions. After numerous cases, appeals, further appeals and delays, most of the workers were reinstated and the case was settled with the unanimous approval of the workers seven years after the dismissals. Under the Bill, these workers would have been unable to pursue their claim.

It is something those opposite should think about. This is what Work Choices is about. This legislation is designed to make it easier to victimise union members and other people who might speak up for themselves or for safety on a mine site. They can be unfairly sacked on the basis of their union membership, but as long as the legal team from Freehills can cook up an ‘operational reason’ to go along with that—which could, according to the 151 academics, be as simple as saying the company would prefer to pay them less money—they can be victimised with no recourse to unfair dismissal proceedings. That is how the Prime Minister wants to clarify the situation. He wants there to be no doubt that companies can target union members and sack them.

I am not saying that all bosses are itching for the chance to do over their employees. Of course they are not. Most Australian businesses are run by decent people who want to do the right thing by their staff, and most Australian workplaces are characterised by cooperation. But, under Work Choices, it is not the good employers who will be rewarded; it is the bad ones. Bosses who
squeeze their work force by paying them below the current safety net will, unfortunately, win contracts and win business off the good employers who try to do the right thing.

If I could now return to the experience of the Pilbara, I would like to point out that this is exactly what happened there. Initially Rio Tinto was a foreign multinational importing its anti-union tactics into Australia. BHP Iron Ore was a different story, and it had an excellent relationship with its staff, paid them appropriately for their skills and the difficulty and danger of their work, and respected their right to union representation. BHP was by all accounts a model employer—until it decided in 1999 that it could not compete with the cost savings Rio Tinto had made by slashing workers’ pay. So BHP was forced to go down the low road, to meet Rio Tinto at the lowest common denominator. Its aim was the ‘removal of the needs to negotiate change with union representatives’, or in other words the denial of workers’ rights to collective bargaining.

Bradon Ellem of the University of Sydney has done extensive research into the tactics used by BHP and he concluded that ‘managers initiated many of the standard measures of union avoidance’ that they had learned from Rio Tinto: refusing to negotiate with the union, targeting union delegates for redundancy and forcing workers to attend one-on-one so-called brainwashing meetings. The aim was to impose a one-size-fits-all WA workplace agreement on all employees, which Ellem shows:

... read as a textbook case in enhanced managerial control achieved through different forms of flexibility. They gave the managers temporal flexibility, requiring employees to ‘work outside normal hours’ or to move from night to day work or from one shift to another as directed. The contract also delivered cost flexibility: salaries were to be reviewed annually and ‘adjusted at the company’s discretion’. Finally, there was spatial flexibility: employees could be required to move between Newman and Port Hedland.

In other words, these contracts were a textbook example of how to break up families and destroy lives. It was a pleasing side effect of this attack on the work force that the spirit of unionism was given a significant boost in the Pilbara. The unions sought a WA award to cover people who refused to sign AWAs, and ultimately they won significant wage increases for their members.

But this government has learnt from the unions’ response in the Pilbara, and the Work Choices legislation is designed to stack the odds heavily in the bosses’ favour. A recent episode of the Sunday program revealed the link between the setbacks suffered by Rio Tinto and BHP and the drafting of the legislation we are being asked to consider this week. The program pointed out that the big business law firm representing Rio Tinto as it victimised its union staff was Freehills. It pointed out that one of Mr Kevin Andrews’s senior advisers is a fellow called Mr Daniel King, who came to the minister from a career at—you guessed it—Freehills.

We know that Freehills was one of several anti-union law firms hired to help draft this legislation. The result is that Freehills will ensure that its clients do not lose their anti-union battles in future. The Sunday presenter concluded:

Under his new legislation, crafted by some of the cleverest veterans of past anti-union battles, there’ll be no more need for avoidance schemes. That is because Work Choices is an avoidance scheme. It is a scheme cooked up between the Howard government and its anti-union, big business mates to strip rights from Australian workers, to force them onto individual contracts, to cut their pay, to extend their working hours with no overtime penalty rates and to remove family-friendly terms from their agreements. Work Choices is a
union avoidance scheme. It is a conspiracy between the government and the big end of town to squeeze a few extra dollars out of ordinary working Australians and their families.

It will do nothing to address the real challenges facing Australian managers and Australian companies today. One need look no further than today’s Australian Financial Review, which has an article by Damien Lynch entitled ‘Top managers fail employees’. It says:

Ineffective management results in lots of wasted time in offices and factories nationwide, generating an annual loss of some $US60 billion in private sector productivity, a report says.

US-based Proudfoot Consulting found that senior managers were using inappropriate management processes and work control systems.

Proudfoot’s Pacific president Ian Renwood said the international study of company-level productivity showed management systems in Australia were poorer than the global average.

What is this government’s solution to that challenge confronting Australian industry? It is to take it out on the ordinary everyday working men and women of Australia.

In the brief time I have left, I would like to foreshadow a difficulty that the Western Australian branch of the Australian Medical Association has with this current legislation. I was surprised to be contacted by them last week. They had been assured by the government, prior to this bill being introduced, that they would expect the AMA in Western Australia, the only state AMA with formal industrial recognition, to be covered by the new legislation. They were advised sometime later that, because of the unique nature of their cover in Western Australia, it would now not be possible to accommodate the AMA. (Time expired)

Senator SANTORO (Queensland) (1.33 pm)—Yet again, we are debating a workplace relations bill that follows on logically from the longstanding policy of the coalition parties, particularly the Prime Minister, and from workplace relations reforms already implemented by the coalition government during the past 10 years. That policy and the reforms are to free employers and employees to make workplace arrangements that best suit them. It really is that simple. They are policies and reforms that have received overwhelming mandates at the last four federal elections, and some of them are similar to measures I introduced in Queensland as Queensland’s Minister for Training and Industrial Relations in the 1996-98 state coalition government. They were sensible and productive reforms then in the state context, and they are sensible and productive reforms in the national context under the Howard government’s program.

The Prime Minister’s interest in Australia’s workplace and relations within it has been a driving force of his political career. It has been a central policy objective of his government since he was elected in 1996. The workplace reform program is well established, well known, and widely welcomed, particularly by the engine room of the Australian economy—small business. It is widely welcomed—that is, except by the Labor Party and its union paymasters, and within one church whose national leader apparently prefers political lobbying to saving souls. They say this bill is a killer. But it is not—and they know it. Apart from the fact that it opens the door to a single national workplace relations system, there is nothing radical or novel about it. Nothing in this bill is dangerous to anything other than the entrenched and one-eyed industrial relations muscle wielded by the big unions and the Labor Party that thinks, apparently, that it will find its future in its past.

Like many bills, the Workplace Relations Amendment (Work Choices) Bill 2005 has
been before a Senate legislation committee. I took part in 1½ days of that committee’s inquiries. I will come back in a minute to one aspect of that hearing that frankly worries me. But the important thing to note is that the committee has recommended some minor changes to the legislation—that is what Senate legislation committees normally do. The Prime Minister has indicated he is quite prepared—and he always is, of course—to look at sensible proposals to improve the legislation. That process is under way, and there are many senators and members involved in the process, including members of the Prime Minister’s workplace relations task force and members of the Senate committee that a week or so ago inquired into the provisions of the bill before us today.

The important thing about workplace relations legislation is that it secures our economic base in the globalised economy in which we live and work. The Work Choices bill provides strong protections for both employers and employees—and, for that matter, also the unions, if they could only see that they must reinvent themselves as relevant entities. Employees’ terms and conditions will not be abolished. The new Australian fair pay and conditions standard will introduce universal statutory minimum standards for the first time at a federal level. Protected award matters include public holidays; rest breaks, including meal breaks; incentive based payments and bonuses; annual leave loadings; allowances; penalty rates; and shift and overtime loadings. Unfair dismissal rules will be strengthened—properly in the policy context—to assist productivity and cut business costs.

More than $28 million will be provided over four years to fund the recently announced unlawful termination assistance scheme to support workers who have been unlawfully terminated. The scheme will fund legal advice for employees who believe their employment may have been terminated unlawfully. It also includes a best practice education and training program for employers on fair and proper termination practices. The Office of Workplace Services will become a one-stop shop to ensure that employees and employers know their rights and obligations and that these are fairly enforced.

In short, this bill takes the ongoing reform process a necessary step further forward in a responsible and measured way. It does not do so by trampling on rights. It will not put the family at risk, and certainly not the family weekend barbecue. It will not end the observance and celebration of iconic events in Australian society. It will not even deny Father Christmas an opportunity to call on everyone just after midnight this Christmas morning. But, to listen to the descants of the choir of critics that trots out every time there is a workplace relations bill to debate, yet again we are approaching the end of the world. The senator opposite who spoke just before me, Senator Webber, made that very suggestion repeatedly.

It is apposite at this point to comment on the highly politicised—and plainly wrongly based—lobbying effort that the Uniting Church has mounted against this bill. I declare an interest here: I have for years attended a Uniting Church in my home town of Brisbane. Therefore, what I have to say on this occasion is not easy and I say it with a heavy heart. I preface these remarks by saying that the churches of course have a perfect right to comment on anything; their contribution to welfare delivery is absolutely invaluable and their pastoral voice is something everyone should listen to. From time to time, the churches make moral points in relation to the impact of activities or policies of government, with force. But their messages are religious, moral and ethical; they cannot be politically partisan messages. No Australian
churchman has any justification for trying to reinvent liberation theology.

At the Senate committee hearing on this bill on 14 November, I was shocked, frankly, by the partisan position taken by the President of the National Assembly of the Uniting Church in Australia, the Reverend Dr Dean Drayton. Dr Drayton told the committee the Work Choices bill would worsen the rate at which Australia is splitting into two distinct and mutually exclusive communities: the haves and the have-nots. Dr Drayton appears to believe workplace relations reforms have created a huge underclass of casual workers. That is absolute nonsense. That it is also the central point of Labor Party propaganda is worrisome in the context of the moral force that Dr Drayton, as head of the Uniting Church, would otherwise bring to his argument. It is a claim that completely ignores the substantially lifted levels of welfare support that the Howard government has provided for all Australians in need. It is a claim that completely ignores the massive jobs growth under the Howard government since 1996. It is a claim that flies in the face of logic and ignores the principles of honest and objective assessment.

For the record, for the information of senators and for the education of Dr Drayton, here are some of the facts. A total of 1.7 million jobs have been created since March 1996, of which 900,000 were full time and 800,000 were part time. In contrast, between March 1989 and March 1996, when the Labor Party was in office—at which time, on the basis of Dr Drayton’s expressed views on workplace policy, the ‘good guys’ were in charge—only 707,000 jobs were created, of which 188,000 were full time and 519,000 were part time. Again for the record: of the 1.7 million jobs created since March 1996, 47 per cent were part time. Of the paltry 707,000 jobs created under Labor over seven years—that is, 101,000 a year—more than 73 per cent were in fact part time.

Now, I do not accept that part-time work, which includes casual employment, is a bad thing. It suits many people, especially women with families to care for. But even if you accept Dr Drayton’s flawed political logic on that score then you must accept that he has shot himself in the foot, because the people he obviously thinks will ‘correct the imbalance’—that is, the Labor Party and the unions—were disastrous failures before and show no signs of having learnt any lessons at all since.

At the committee hearing on 14 November, Dr Drayton made other remarks that, as the record shows, astounded me. He attacked the new Fair Pay Commissioner who as an evangelical Christian says that in his deliberations he might seek God’s guidance. Divine guidance is apparently anathema to Dr Drayton. He would far prefer that temporal legislation be the sole arbiter. Again for the record, Dr Drayton told the committee that in his view the Fair Pay Commissioner should—his word—face a crisis of conscience over the lowest paid:

I would actually prefer that the guidelines of the Fair Pay Commission gave him quite explicit directions. Is it appropriate that, in fact, a Christian is actually calling upon God in a multicultural and multifaith society? I think that raises more questions than it answers.

What it actually does is raise questions about Dr Drayton. He also made this inappropriately partisan point:

I state it because it is important to put in the legislation what can help the Fair Pay Commission make wise, rational decisions about how people in Australia can have a minimum wage that does not decrease but increases. And we have no guarantees of that at all.

But real wages, as you would know, Acting Deputy President Murray, have risen on average by more than 14 per cent under the
Howard government. Unemployment is at 5.1 per cent. In the past 12 months, it has consistently been at 30-year lows. In my view, that record clearly answers any ‘social justice’ issues Dr Drayton might legitimately have.

But, if we pretend for the purposes of this discussion that Dr Drayton’s poor oppressed masses actually exist, who is actually looking out for them? It is not the Labor Party, which in office depressed not only the economy but also employment and wage growth. It is not the unions, who seem to be still trying to work out whether the bloke who invented the wheel had the appropriate union ticket to do the job. It is the Howard government, and the record shows that very clearly indeed, including what I have again put on the record today.

The unemployment rates for March 1996, when the Labor Party was newly out of office following the verdict of the Australian voters—a verdict that has now been repeated three times, I should add, as I said yesterday; I will say it again today and, undoubtedly, I will say it again many more times—compared to those for June this year, the latest figures available in complete form, illustrate the landscape very clearly. For brevity’s sake, I will not go through, for example, all of the Queensland federal electorates to illustrate my point as to just how far unemployment rates in all of those electorates, including electorates represented by the Labor Party, have fallen. However, I will say that the figures for the 28 House of Representatives seats in Queensland are highly instructive indeed and demonstrate precisely why the Labor Party holds only six of them. But I commend the figures to Dr Drayton and other people who apparently want to be willing dupes of the Labor Party and the big unions.

Nor will I repeat today all the things that I have said in favour of the reforms we are currently considering. On many occasions in this chamber and elsewhere I have stated the logic and the imperative for these reforms. They include choice, flexibility, personal initiative, changed workplace and work force circumstances, undesirable duplication and ending the confusion that the present system creates for small business. So I say to the Labor Party and Labor Party senators opposite: ‘Wake up and see the new light on the hill.’ We must all work towards creating and maintaining sustained jobs growth within a strong national economy. We can start doing that today. We can do so in the context of the workplace relations reforms that are before us today—by voting for them.

Senator POLLEY (Tasmania) (1.45 pm)—I rise to speak on the Workplace Relations Amendment (Work Choices) Bill 2005. Scrooge, John Howard—remember Scrooge?

The ACTING DEPUTY PRESIDENT (Senator Murray)—Senator, please refer to Mr Howard as ‘the Prime Minister’ or ‘Mr Howard’.

Senator POLLEY—I was actually referring to Scrooge, and then I went on to say ‘John Howard’.

The ACTING DEPUTY PRESIDENT—It is proper to refer to him as ‘Mr Howard’ or ‘the Prime Minister’.

Senator POLLEY—John Howard will deliver Australia into a bleak Christmas future with this Work Choices legislation. Choice? There will be no choice. John Howard’s attack on workers’ rights continues his rampant abuse of power. Scrooge, Mr Howard, Scrooge. Cardinal George Pell urged John Howard to sustain civilised conditions—

The ACTING DEPUTY PRESIDENT—Senator Polley, I have asked you twice. It is the practice in this place to refer to Mr
Beazley as ‘Mr Beazley’, not ‘Kim Beazley’, and to Mr Howard as ‘Mr Howard’ not ‘John Howard’. You can refer to him as ‘Mr Howard’ or ‘the Prime Minister’; you cannot refer to him as ‘Scrooge’, and you cannot refer to him as ‘John Howard’.

Senator POLLEY—Cardinal George Pell urged Mr Howard to sustain civilised conditions and family time for Australian workers. Family time will be a thing of the past. Children will no longer have mum and dad to take them to the footy or netball on a Saturday morning. Aspiring musicians will not have mum or dad available to take them to their annual end-of-year production. Community theatre groups will fade. Volunteers will be a thing of the past, because we will become a nation where survival of the fittest rules—a shadow of big brother America.

Why do we have to follow America? Why cannot we continue as one of the world’s most egalitarian societies? Australian workers have been productive, and industrial action has become a rarely-used tool of the trade union movement. Australian workplaces have evolved to a system of collective enterprise agreements. One man’s old and tired dreams will fast become Australia’s nightmare. With arrogant power in the Senate, there will be no holding the Prime Minister back as he tries to succeed where Peter Reith and his balaclavas and alsatians on the waterfront failed.

For Labor, a cooperative and progressive industrial relations system is a core value: workplaces where employees are confident and secure, and where wages and conditions are fairly negotiated, not stripped away. The Prime Minister’s claim that he has a mandate to now change unfair dismissal laws to give exemptions to businesses of less than 100 employees is simply untrue, and his record proves it. But Mr Howard has long been guilty of misusing information to push his extreme unfair dismissal changes.

This government’s extreme industrial relations changes will slash workers’ wages and cripple their ability to pay their mortgages. It will threaten living standards and destroy family time. What happens to the weekly family budget when breadwinners lose their penalty rates? These extreme industrial relations changes make families vulnerable. Cardinal Pell rightly reminded Mr Howard of the moral obligation to provide a minimum wage. Arrogant Mr Kevin Andrews effectively told the church to mind its own business.

Mr Howard’s dream will be the working person’s nightmare. Mr Howard has a Scrooge-like vision of a 24-hour workplace, seven days a week, without penalty, or additional costs for working overtime, night shifts or public holidays. It is the Labor Party’s duty to fight for the rights of Australian working families—and fight we will. Australia was built on a fair day’s work for a fair day’s pay. Australia became strong on the fair go, and it will all be undone by one man’s dream of creating a little America. Of course these laws are unAustralian. They are American in their intent.

This government will also criminalise the rights of Australians to challenge wages and conditions. Work Choices and Welfare to Work are legislative monsters which will mature and resemble their Uncle Sam in all his cultural ugliness. But still this government have made it clear that they have no intention of listening.

Together, Work Choices and Welfare to Work will increase the demand on groups in the community supporting needy families in our community. Combined Welfare to Work and Work Choices will not liberate the most vulnerable in our community. Is it not time that Mr Howard and his arrogant government
stopped and listened? If they did they would hear why women, especially, are concerned about these changes. Australian families understand the full impact Mr Howard’s industrial relations nightmare will have on their lives. Mum and dad in suburban Australia do not want their children bullied into unsafe, low paid jobs.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT—Order! Senator Sterle and Senator Kemp, we are trying to listen to Senator Polley. Thank you, Senator Polley.

Senator POLLEY—Parents are starting to become alert to the full impact of Mr Howard’s nightmare on their children and their grandchildren. Many parents remember the labour market of their adolescence, and what it was like to work for $1.50 an hour, off the books. The race to the bottom will be particularly painful for those workers who are only allowed the worst possible conditions as their workplace benchmark. That is the lowest of the low. What argument does the government present that the worst is as good as it will get for many Australian workers? Our most vulnerable will be rorted through this legislation. Young people and older Australians will have no choice. Workers at the bottom end of the labour market will be worse off. It will not take long for the hospitality industry to transform Australia’s restaurants and cafes into Americanised workplaces where unreliable tips are the core of the person’s income.

Under this legislation, hospitality workers’ only legal entitlement is to those very lowest of the low standards, which I believe are not appropriate. The market forces will operate the way they have always operated in this unmediated fashion and employers would have the capacity to place any workers on the lowest of low standards. Each day, this arrogant Howard government eats into the heart of Australia’s democracy by abusing the functions of this chamber.

 Australians have always had a reputation as reliable and hardworking. Our workers are acknowledged and recruited worldwide. We have a fine reputation for producing hard-working and reliable employees. Why go down the American track? These changes are an insult to this country and to the men and women who have made it great. This out of touch government really have no idea. Mr Howard is trying to make Australian workers compete with Third World workers. Instead of growing the clever country, the coalition are slashing conditions and taking Australian workers to the Third World. Why? Because they can.

Instead of confronting the skills crisis, Mr Howard’s government is slashing wages and conditions. He is even importing apprentices. I pray that Australian wages will never compete against those in China, India and other developing countries. Labor wants Australians to take the high skills road. This hard-working nation must invest in education, infrastructure and training, not be dumbed down but be skilled up. Labor wants Australian workers to compete on skills, not wages. No worker will be worse off? You know that is untrue. Work Choices? Pardon me! Choices for whom? Not for the workers in Tasmania or other Australian workers. Protected by law? Pardon me! Laws protecting whom? Not Australian workers. There will be no choice for the single mother forced by Welfare to Work and Work Choices into a low-paid job where her earnings go into providing after-school care for her children. When it all gets too much and she cannot cope, what will this mean Howard government do? It will take away her benefits for eight weeks. These laws are designed to stitch up Australian workers now and into the future.
What does Mr Howard say to workers who do not like their pay and conditions? ‘Find another job.’ What he is really saying is that any job is better than no job at all. The Salvation Army has said that greater use of contracts would exploit the vulnerable in our society. During these nine or so long years, Mr Howard has encouraged families to put their children into private schools and into private health insurance, to take out bigger mortgages and to buy new cars. A lot of that expense relies on both parents working, access to child care, overtime and substantial penalty rates. Australia’s 10 million workers deserve a voice. They deserve the traditional checks and balances of this chamber. John Howard, what sort of Christmas are you planning to deliver to Australian workers?

Mr Howard has stolen Christmas. Christmas Day will not be protected. This means that employees can be forced to sign an agreement that makes them work Christmas Day without appropriate compensation. Come January, Mr Howard’s awards task force will release its report. While many Australians are spending family holidays at the beach, their rights and conditions will be further eroded. Mr Howard and Mr Andrews continue to refuse to guarantee that no individual employee will be worse off. It is Mr Howard’s obsession to take industrial relations away from the states. This government is not serious about creating a fair and uniform system. I am particularly concerned about this legislation’s impact on small business. What will happen to small business?

Senator McGauran—You’re finished. You’re in another world!

The ACTING DEPUTY PRESIDENT—Order! Senator McGauran, you are being provocative and unruly.

Senator POLLEY—My state thrives on small business culture but, under this arrogant government’s plan, small business will have no rights when they are not incorporated. Labor challenges the Prime Minister to guarantee that his proposed workplace relations legislation will not remove the rights and protections for small business operators. At the moment, a selection of small business operators, including contractors, owners and drivers and builders can use state industrial relations acts to remedy disputes. Mr Howard’s changes to industrial relations appear to remove these important mechanisms by overriding the state laws. There are tens of thousands of small business people who deserve an answer and protection from these extreme industrial relations laws. Under this government’s extreme plans, Tasmania’s healthy small businesses, particularly Tasmanian farmers, will be urged to incorporate. If they incorporate, they lose beneficial tax arrangements. What message are you sending to small business in Tasmania? Claims traditionally settled in the Tasmanian Industrial Commission will end up in the High Court. Small businesses and their loyal employees will not know whether they are covered by state or federal employment laws.

The king of fudge, Prime Minister John Howard, has fudged his way out of guaranteeing a minimal wage. What happens if a person goes to an interview and is offered employment subject to signing an AWA and refuses? Will that person remain eligible for unemployment payments or single-parent or part-parent pensions until they get a job offer not compelling an individual contract? What about a prospective new employee with religious convictions? Will workers still be able to claim religious belief to avoid signing an individual contract of employment? Remember penalty rates? They were introduced to discourage antisocial working hours. For heaven’s sake! They were introduced to encourage the eight-hour day. Scrooge, Mr John Howard, Scrooge! Where is John Howard taking this country? Back to his future.
Australian families will lose 150 years of hard-fought and hard-earned wages and conditions because of one man’s obsession.

(Time expired)

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Workplace Relations

Senator CARR (2.00 pm)—My question without notice is to Senator Abetz, Minister representing the Minister for Employment and Workplace Relations. Does the government support the payment of penalty rates to Australian workers who are required to work on national public holidays and at family unfriendly or unsociable hours? Can the minister confirm that a key function of penalty rates is to deter employers from working people on public holidays and at family unfriendly hours unless they are absolutely required to due to the requirements of the business? Why won’t the government support the retention of penalty rates for Australian workers?

Senator ABETZ—We as a government believe in choice: choice for workers and employers to come together to make arrangements that best suit their needs. I happen to notice that there are some journalists up in the press gallery. I had occasion the other day to look at the Australian journalists award to see how it dealt with the issue of public holidays and people having to work on public holidays, and, indeed, an arrangement has been made in that regard. I stand to be corrected on the exact detail, but my recollection is that journalists get about six weeks and four days. I am getting a nod of agreement, I think, from the press gallery. They have traded a sensible arrangement that allows the employer and employee to come together to negotiate an agreement, because, for example, the vast majority of Australians, including those opposite, expect a newspaper on Boxing Day, and that requires people to work on Christmas Day.

Senator Chris Evans—There is no paper on Christmas Day. Do we get one on Christmas Day now, do we?

Honourable senators interjecting—

The PRESIDENT—Order! We have just started question time. I know it is a controversial subject but, for goodness sake, if you had received some of the letters and emails that I have received in the last couple of days about the behaviour in this place, you might feel ashamed of this place as well.

Senator ABETZ—Mr President, can I take up the interjection from the Leader of the Opposition in the Senate just to show how out of touch he is. He said, ‘Do we get a newspaper on Christmas Day now as well?’ The answer is, yes, we do. Even the Hobart Mercury, my local newspaper, delivers a newspaper to my gate on Christmas Day. The fact that Senator Evans does not know that just shows how out of touch the honourable senator is as leader of the Australian Labor Party in this place. He does not understand that newspapers are in fact produced on Christmas Day in anticipation of delivery on Boxing Day, nor does he know that newspapers do get delivered on Christmas Day itself. Indeed, his very own leader holds press conferences on a Sunday to tell the world that barbecues are going to stop. Just as an aside, I went into Barbecues Galore the other day in my home city of Hobart, and there was a throng of people in there buying up barbecues. They do not believe the mantra of the Leader of the Opposition. But that aside—

Senator Carr—Mr President, on a point of order: I asked a very specific question about penalty rates and the government’s support or otherwise for them. Could you ask the minister to refer to the question.
The PRESIDENT—The minister has one minute and 15 seconds left in his answer and I remind him of the question.

Senator ABETZ—The question was about penalty rates and whether or not the government accepted the trading away of penalty rates. What I have pointed out to the opposition, much to their chagrin, is that unions have in fact been negotiating these types of agreements. I have also indicated to those opposite that newspapers actually do get produced on Christmas Day, something that has happened for well over a decade, and those opposite do not know about it. How embarrassingly inept of the Leader of the Opposition in the Senate, who would be a key person in a future Labor government, to make such a faux pas! Mr Combet himself is on the public record as indicating that he has negotiated awards with employers that trade away penalty rates. If it is good enough for the trade union movement to do it, why on earth is it not good enough for individual workers to be given the same freedom to negotiate with their employers for the benefit of their family life and for whatever other needs they might have?

Senator CARR—I ask a supplementary question, Mr President, and it goes to why the government is not supporting a no disadvantage test. If that remains the government’s policy, why won’t the government support the elements of the Australian industrial relations system that actually act to preserve the balance between work and family life rather than take us down the path of the American workplace models?

Senator ABETZ—The answer is very simple and the honourable senator should know the answer to that. Under the current no disadvantage test, workers could potentially trade away the totality of their sick leave and the totality of their annual leave. We are now legislating to ensure that you cannot bargain away your sick leave—or your personal leave as it is now called—and to ensure that you only trade away two weeks of your annual leave. As a result, the no disadvantage test is no longer required because those basic bare minima are now going to be legislated and guaranteed by law.

Avian Influenza

Senator LIGHTFOOT (2.06 pm)—My question is directed to the Minister for Fisheries, Forestry and Conservation, Senator the Hon. Ian Macdonald. Will the minister update the Senate on action the Howard government is taking to test Australia’s preparedness to deal with an outbreak of avian influenza?

Senator IAN MACDONALD—I thank Senator Lightfoot for that question and acknowledge his ongoing interest in border protection of all sorts, particularly in his own state of Western Australia. Avian influenza is a highly contagious viral infection of birds. If there were an outbreak in Australia, it could destroy a $6 billion chicken meat industry and cost some 120,000 jobs. Generally, humans are not affected, but some strains of the virus can affect those human beings who are in close contact with affected birds. There is a further risk that the disease could mutate into a form that could be infectious between humans, leading to a pandemic. Currently, avian influenza is not present in Australia but we must never become complacent.

The Australian government is renowned for the strength of its border security and its quarantine. As a government getting on with the job of protecting Australians, Australian industry and the Australian economy, the Howard government has put in place a series of measures to protect Australia industry and the Australian population. Australia is one of the best prepared countries in the world to respond to an influenza pandemic.
Already some $300 million has been committed to pandemic preparedness, including $170 million spent on the Australian health response and $140 million to help our regional neighbours.

The measures we have put in place include the purchase of some 3.95 million courses of antiviral drugs. On a per capita basis, Australia has one of the largest stockpiles in the world. There are thermal-imaging screens to detect body temperature that can be deployed to airports within hours of a possible human pandemic outbreak. We are stockpiling some 40 million surgical masks, 50 million syringes and some 303 ventilators for distribution to all Australian states and territories. We have also secured a contractual commitment for up to 50 million doses of pandemic vaccine. We have allocated some $7½ million to finance urgent research into pandemic influenza. We have also provided some $15½ million to Indonesia, which will include the purchase of some 50,000 courses of antiviral medication. This will treat suspected victims and those in immediate contact.

To test Australia’s preparedness and our quarantine and biosecurity arrangements against avian influenza, the Australian government is coordinating a simulated outbreak of avian influenza called Exercise Eleusis, which actually started today. Planning has been going on since May 2004. The exercise, which is run by my department with the Department of Health and Ageing, will involve 1,000 people, including federal and state government departments, agriculture and health industry organisations. The hypothetical scenario being used in the exercise is based on several states being affected by avian influenza with implications for other jurisdictions to contain and eradicate the disease. This is a functional simulation taking place in an operational environment and the participants will perform real roles. It is all about an opportunity to identify areas where we can continue to improve our emergency exercise response. Exercise Eleusis is just another example of the Howard government getting on with the job of protecting our borders and guarding against threats. (Time expired)

Workplace Relations

Senator McLUCAS (2.11 pm)—My question is to Senator Abetz, representing the Minister for Employment and Workplace Relations. Is the minister aware of evidence from the Department of Employment and Workplace Relations that people with disabilities should be treated like ordinary job seekers and that this is why the government wants them dumped onto Newstart allowance in the future? Is it true that people with a disability have long been recognised as having special circumstances and, as a result, have been paid additional income support? Can the minister explain why the government has now decided that, in future, a person with a disability will be treated as just another job seeker and receive $84 less each fortnight than the 708,000 Australians currently on the disability support pension?

Senator ABETZ—Once again, we have a misrepresentation of the government’s position. I do not know why the opposition continue to do so. I do not know how they pull their sheets up to their chins of a night when they get into bed, knowing how often they have misrepresented the government’s position. Nobody will be dumped—and she knows it. She was at the inquiry, as I understand it, and she should know exactly what the evidence is. In relation to people with disabilities, we have indicated now, on a number of occasions, that we will take a sensible and flexible approach, taking into account individual needs and requirements. One of the thresholds is the capacity to be
able to work 15 hours a week. In relation to that, I also remind those opposite that we have developed a $3.6 billion package to allow people to make that transition.

Senator Chris Evans—What are the savings?

Senator ABETZ—Senator Evans asks, ‘What about the savings?’ We believe it to be an investment in individual Australians, because we concentrate on people’s abilities and not on their disabilities, as those opposite do. Can I ask Senator McLucas in her supplementary question to indicate to us whether the Australian Labor Party does or does not believe that work is a fundamental building block of social and economic inclusion. And she is not willing to answer.

Senator McLucas—Mr President, I raise a point of order. I should be asking the question, not answering it.

The PRESIDENT—I was just about to make that point.

Senator ABETZ—A discreet nod of the head would have done, Mr President. She would not even have needed to interject. She could have just given a discreet nod of the head.

Senator Chris Evans—Mr President, I raise a point of order. I think the minister is denying your ruling, which was that you accepted the point of order from Senator McLucas. He then went on to repeat his claims, which I think is in defiance of your ruling. In addition, Senator Abetz continues to abuse senators when they ask a question and continues to deny the facts regarding the government’s package, under which people will be worse off. My point of order, Mr President, is that you called him to order and he deliberately went on abusing the senator, in contravention of the standing orders.

The PRESIDENT—Senator Evans, yesterday you reminded me of the number of questions that the opposition asked. I would say that today may be the same as yesterday if we continue to have points of order. I had ruled on the point of order. Senator Abetz, you have one minute and 42 seconds to reply to the question.

Senator ABETZ—Mr President, I understood that head movements were not against standing orders, but I can understand why Senator Evans is so precious about this. I would like the Australian Labor Party to indicate whether or not they agree with this statement:

Work is a fundamental building block of social and economic inclusion. The community and the individual all benefit when more people are able to participate in the social and economic mainstream.

Not one of them over there is willing to—

Senator Wong—Yes, we wrote it. It’s in our report.

Senator ABETZ—It is in their minority report, so they know how to talk the talk but they cannot walk the walk, because 112 paragraphs later, in their minority report, having stated the important principle that they now, all of a sudden, agree that they accept, do you know what their policy position is? Oppose the government. No individual thought; no ideas of their own. What it does make out is the very strong case that I have been able to point to for so long now—that Labor’s policy is ‘welfare to nowhere’.

We have a policy of welfare to work which includes those who have disabilities within our community, because we are willing to invest $3.6 billion in them as individuals to assist them in making that transition.

Senator McLucas—Mr President, I ask a supplementary question. I re-ask the question: can the minister confirm that it is true that people with a disability have long been recognised as having special circumstances and, as a result, have been paid additional
income support? Can the minister also answer: doesn’t the government’s plan to pay people who acquire a disability in the future $84 less per fortnight show that it does not care about the circumstances confronted by these already disadvantaged Australians? Doesn’t the government’s plan show that it prefers the American model of cutting income and reducing protection for the most disadvantaged over the Australian model of providing the most help to those who need it most?

The PRESIDENT—I doubt whether that was a supplementary question. It was a repeat of the first question.

Senator ABETZ—Mr President, I always take the opportunity to prosecute the government’s case but you are absolutely right: the simple repetition of a question is not a supplementary question. Here we have again from those opposite the anti-US mantra. It doesn’t matter what we talk about now; those opposite always try to say that we are somehow adopting the US model as though the US might be the big baddie. I say to those opposite: I would prefer the welfare system of the United States to that of North Korea, Cuba or China. If they want to make those sorts of comparisons, they can, but they are irrelevant to this debate because this is an Australian solution to an Australian problem for the benefit of individual Australians. (Time expired)

Domestic Violence

Senator BARNETT (2.19 pm)—My question is to the Minister for Family and Community Services and the Minister Assisting the Prime Minister for Women’s Issues, Senator Patterson. Will the minister update the Senate on the progress of Australian government programs to combat domestic violence in the Australian community?

Senator PATTERSON—I thank Senator Barnett for a very timely question and acknowledge that Friday was the International Day for the Elimination of Violence Against Women and also White Ribbon Day. White Ribbon Day has become a fixture on the Australian calendar since the year 2000 and it is now recognised world wide. It was started in Canada by a group of men in response to the killing of 14 women on a university campus. It is an effort by men to end violence against women and a day for men to make a personal commitment to pledge never to commit or to condone or to remain silent about violence against women. So I am particularly grateful that Senator Barnett has asked this question.

On Friday I hosted the White Ribbon Day breakfast. I was fortunate to be joined by a number of high-profile men, and their presence sent a very strong signal that violence is not a private issue but a matter of grave concern for everyone. Among those in attendance were federal Treasurer Peter Costello, Senator Rod Kemp, Parliamentary Secretary Bruce Billson and many well-known identities from business, sport and the arts, representatives of the three arms of the Defence Force, police and other emergency services, people working in support services, and public servants.

I want to acknowledge a very special guest who was there, Angela Barker. Angela was severely abused by her boyfriend when she was 16. She is an incredibly courageous young woman who tells people from first-hand knowledge how important it is to stop violence against women. Angela is now unable to speak and is permanently in a wheelchair. A CD and education kit telling Angela’s story have been circulated to every Australian high school as part of the Howard government’s Women’s Safety Agenda. In addition, people like the Victoria Police are now using it in their training. I note that some police in Albury have been using it as well.
The problem of violence against women transcends political and social boundaries. Figures show that one in four women suffer from relationship violence during their lives. While the economic costs are huge—they are estimated at $8 billion a year—the social costs are the most significant because they are borne not only by the victims of violence but by their children, their families, their friends, their siblings and entire communities.

The Howard government have massively stepped up efforts to try to prevent domestic and family violence happening in the first place. In this year’s budget alone, we announced $76 million for a new Women’s Safety Agenda, which focuses on four broad themes of prevention, health, justice and services. The agenda also includes the rerelease of the successful national campaign, Violence Against Women: Australia Says No, and training for nurses in rural and regional areas on how best to respond to domestic violence—that is an important area because many of these women indicate that they do not go to the services in their communities because they know the people operating them, so having nurses helping them to respond to domestic violence is very important. And more resources have been given for Men’s Line Australia to help men deal with family and domestic violence issues.

The government also provides extensive ongoing funding for crisis accommodation services and relationship counselling. This includes specialised programs that tackle the problem of violence in many Indigenous and migrant communities. I am pleased to say that we are seeing domestic violence exposed as a serious crime, and there is a much stronger willingness to speak out about the problem. I must give credit here: at a project for women in the Polish community to address the issue of domestic violence, we launched a small report and there were at least five Victorian police at the launch of that report. I do not think that would have happened 10 or 15 years ago. So the whole community is now more focused.

It is a responsibility for us all and I believe we can make a real difference by working together as governments and people in defence forces, police and business. We have a number of projects now with businesses to draw the attention of this to human resources managers. (Time expired)

**Welfare to Work**

**Senator MOORE** (2.24 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Can the minister confirm that currently a single mother with two children aged nine and 11 and with no other income receives $488.90 a fortnight in parenting payment to pay for her care and for that of her children and will continue to receive this payment even after 1 July 2006? Can the minister also confirm that another mother with two children aged nine and 11 who separates from her partner after 1 July 2006 will receive $437.60 a fortnight under current rates of Newstart allowance to pay for her family? If the government accepts that the first mother needs $488.90 a fortnight to care for her two children and herself, how can it justify paying the second mother $51 less each fortnight? How does giving a second mother less money for her family to live on assist her to get a job?

**Senator ABETZ**—I express my disappointment that somebody such as Senator Moore should also fall into the trap of misrepresenting the government’s policy. I accept that people from time to time have to do these things for their party and for their endorsements, so I am willing to give Senator Moore the benefit of the doubt—that she does not really believe the assertions that she has made.
What the honourable senator should be talking about is the totality of the package. As I have indicated on so many occasions now, the totality of the package includes the social security payment. It also includes the $3.6 billion investment from which that single mother to whom she refers can draw upon to assist her to make that transition into work. Thirdly, you have the enhanced taper system, which enables her to earn more money with no impact upon her social security benefits. We have a well-rounded policy, keeping in mind that the single mother will not be required to undertake training or search for work until such time as the youngest child is well and truly at school.

Those people who are in the position of being a single parent are supported by the government until such time as the youngest is at school. After that we say: during the time that the child is at school, surely it is appropriate for them, under the concept of mutual obligation, to consider whether or not they have the capacity to work for 15 hours a week—that is all; three hours per working day from Monday to Friday—to supplement their income and reduce the burden on their fellow Australians. I think that that is a fair, reasonable, balanced approach.

We have a policy designed to deliberately encourage people off welfare and into work. I am not often reduced to quoting the work of Senator Wong but on this occasion the penny has dropped, so allow me to quote her words. She said:

Work is a fundamental building block of social and economic inclusion.

It is great that after all this time the Australian Labor Party finally recognise that, even in their minority report. For single mums, we do want to engage them in social and economic inclusion. That is what we want for them. The example provided was a single mum. I would hate to be sexist but that was the example given—a single mum as opposed to a single parent. Those extreme feminists on the other side will forgive me if I concentrate on a single mum. A single mum is just as aspirational as any other Australian. I am sure the single mums of this country do want to find work and do want to supplement their social security income for the benefit of their family unit and for the benefit of their children, and that is exactly what our policy is designed to do. Before Senator Moore and others keep asking their questions and supplementary questions, they should search their policy cupboard and ask: where is their welfare to work policy? There is none, as was shown by their minority report. They preside over a welfare to nowhere policy. (Time expired)

Senator MOORE—Mr President, I ask a supplementary question. Can the minister explain what cuts in household spending the government expects of that sole parent whose youngest child has turned eight and whose totality of payment in the ‘well-rounded package’ is now $51 less a fortnight? What kind of expenses should they cut in raising their families—food, clothes? Again, how does this ‘well-rounded package’ of $51 less a fortnight help that family to get a job?

Senator ABETZ—I am delighted that I was able to educate Senator Moore in some political correctness. She is now referring to sole parents in her question. We as a government do not have a discriminatory policy, and sole parents will be dealt with in an appropriate way by us. Asserting that single parents will be as of necessity getting less is to suggest that none of them will find work, that the $3.6 billion investment in assisting them to make that transition will be of no benefit whatsoever—and that does not stand to reason at all—and that the single parent will not take advantage of the new tapering
system, which would encourage the single
parent into employment.

**Telstra**

Senator CHAPMAN (2.31 pm)—My
question is directed to the Minister for Fi-
nance and Administration. Will the minister
update the Senate on the possible sale of the
government’s remaining shares in Telstra?
Has the minister considered any alternative
to the sale?

Senator MINCHIN—I thank Senator
Chapman for that question, particularly in
the current context, which is that Telstra has
announced a very significant new strategic
direction for the company involving major
new investment by Telstra in telecom-
munications in this country and that the gov-
ernment is considering some very significant
regulatory issues. That context does beg the
question of why on earth the government
should maintain this impossible conflict that
we have of being the majority owner of this
company and having the responsibility as the
regulator of telecommunications in Australia.

It is the government’s very strong view
that the shareholders of Telstra should be
those individuals and institutions in this
country who voluntarily take on the risks of
owning shares in a telecommunications
company and not the taxpayers of Australia,
who have around $25 billion tied up in a
telephone company. The recent volatility in
the share market in relation to this company
and many others simply reinforces the need
for any investor, including this government,
to have a much more diversified portfolio of
assets than is currently the case. The gov-
ernment continues to believe very strongly
that it is in the national interest that we sell
our remaining shares in Telstra.

Senator Conroy interjecting—

Senator MINCHIN—in that regard, I
announced last week that ABN AMRO,
Goldman Sachs JBWere and UBS have all
been appointed to be project manager joint
global coordinators for the sale of the third
tranche of our Telstra shares. In that role
those three banks will be advising the
government by early next year on whether
we should proceed with the sale late next
year and, if so, whether it should be a full or
partial sale of our shares. The banks will
advise us on likely market conditions, levels
demand, possible price levels and how we
go about selling $25 billion worth of shares.
It is the sort of advice that you would
normally expect so that we can make an
informed decision about a sale that will be of
huge magnitude.

It does cost money to employ banks to
perform this function. We have said publicly
that the banks will receive some $12 million
in fees for project management if—and I
emphasise ‘if’—we do proceed to a full sale.
In the context of $25 billion of shares, $12
million is eminently reasonable, and it is less
than we paid in the case of T1 and T2. There
was a particularly silly press release from Mr
Tanner about this matter where he claimed
we should make all these decisions on
method and timing et cetera before we
employ the banks. That is obviously a very
silly position to be adopted by the opposition
and it indicates his total lack of understand-
ing of the magnitude of this sale and what is
required.

Our behalf of the government I commend
those three banks on their selection as our
project managers for this massive sale. They
will now work with the government to
achieve our goal of a full sale of our
remaining shares in the course of 2006. Of
course, a full sale should have occurred in
1999. It was Labor’s populist refusal to
support a full sale then that has cost
taxpayers $54 billion. Taxpayers are $54
billion worse off because the Labor Party
opposed a full sale back in 1999. It is time to
liberate this great Australian company, and
we will work hard to achieve that goal in 2006.

Senator Conroy interjecting—

The President—You are wasting question time, Senator, by continually interjecting.

Genetically Modified Food

Senator Siewert (2.35 pm)—My question is to Senator the Hon. Kay Patterson, representing the Minister for Health and Ageing. Is the minister aware of the recently published research by the Australian National University that showed an allergic reaction in mice to a genetically engineered field pea developed by the CSIRO? Can the minister outline what similar independent published scientific research is undertaken by the Office of the Gene Technology Regulator and Food Standards Australia New Zealand to assess the health risks to the general public posed by the existing commercialised genetically engineered foods on sale in Australia today?

Senator Patterson—I am aware of that issue. It was very prominent in the newspapers about a week ago. I do not have a briefing here on that issue. I will ask the Minister for Health and Ageing to provide me with any information in answer to your question and provide it as soon as I possibly can.

Senator Siewert—Mr President, I ask a supplementary question. Is the minister aware of the announcement yesterday by the WA minister of agriculture that WA will fund independent scientific research into the health risks of existing GE foods on the market? Will the minister commit the Commonwealth through the OGTR, FSANZ and other independent bodies to conduct similar research in an expedient manner to ensure the safety of the Australian public?

Senator Patterson—that is a question that is really more appropriately directed to the Minister for Health and Ageing. I cannot direct any minister to do anything, and I would not take a direction from you either, Senator. I will pass that on to the relevant minister and get an answer for you as quickly as possible.

Senator Bob Brown—Mr President, on a point of order: the minister acknowledged that the matter that Senator Siewert had asked her about was prominent in the public arena a week ago. This is question time, a time to seek answers to questions on matters in the public arena—

The President—What is your point of order, Senator?

Senator Bob Brown—The point of order is that it is not good enough for the minister to be able to not answer a question like that. She is simply failing in her responsibilities.

The President—Senator Brown, the minister has taken a question on notice and that is a normal thing during question time.

Workplace Relations

Senator Adams (2.37 pm)—My question is to the Special Minister of State, Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Will the minister advise the Senate how Australian families have benefited from a more flexible workplace relations system under the Howard government? What is the government doing to encourage even more family friendly workplaces, and is the minister aware of any alternative policies?

Senator Abetz—I thank Senator Adams for her excellent question. Thanks to past reforms enacted by the Howard government, Australian workers, especially those on AWAs, are able to enjoy family friendly working conditions. That is despite those on the other side opposing those reforms every
step of the way. Last week, the 2005 Work and Family Awards for family friendly work practices were presented. I congratulate the winner, Austral tree and stump removals. What made Austral tree and stump removals the clear winners in the family friendly stakes were their innovative family friendly Australian workplace agreements with family friendly provisions such as flexible start and finish times, flexible working days, paid time off during school holidays for employees with children, employee-nominated hours of work and employees banking additional hours of work for paid or unpaid leave. Would these sorts of flexible, family friendly arrangements be possible under an award? Of course not.

I have been asked about alternative policies. We know what Labor’s alternative is. It is the son of rollback, called rip-up. Under Labor, people like Chris Grigg—employed by Austral under their family friendly AWAs, which Mr Grigg himself said allowed him to ‘concentrate on other important things like family and to reconcile with my wife’—would be thrown back onto the inflexible award system. Labor continue to run a dishonest scare campaign against our family friendly plans. This morning they held a breakfast briefing where another supposedly independent academic, Ms Barbara Pocock, was rolled out to attack our proposals. Ms Pocock, of course, tag teamed with the trade union choirboy David Peetz at the recent Work Choices inquiry. There, Ms Pocock failed to disclose union-funded research totalling well over $500,000. She also failed to disclose a period of full-time work with the United Trades and Labour Council and two years working for the former leader of the Australian Democrats. Indeed, at the time of her appointment, the Financial Review described Ms Pocock as ‘left-leaning, an active trade unionist and a former union official who would advise Senator Stott Despoja on work, industrial relations, employment services and women’s issues’. Senators may well recall that shortly after that appointment Senator Stott Despoja came out and advocated Taliban-style maternity leave. What is all this about? Who knows about family friendly workplaces? Left-leaning academic and trade unionists—

Senator Stott Despoja—Mr President, on a point of order: could you not only direct the minister to respond to the question but also warn him against making misleading statements before the chamber, or else I will be requesting a statement of personal clarification. I also ask you to draw to the attention of Associate Professor Barbara Pocock the fact that she has been reflected upon in this place and ensure that she has right of reply as the standing orders allow for.

The PRESIDENT—I take note of what you said, Senator Stott Despoja. I ask Senator Abetz to return to the question.

Senator ABETZ—To assist Senator Stott Despoja, on 29 October 2001 Senator Stott Despoja was reported as saying, ‘Even women in Afghanistan get three months maternity leave’—she fumed. That is the quote and I will table it for the benefit of Senator Stott Despoja’s memory.

As I was saying, we on this side of the parliament rely on good solid workers like Mr Grigg and the small business community to inform our plan, whereas those over on the other side rely on the left-wing academics and trade unionists to inform theirs. We have our feet well and firmly planted in the real world for the benefit of workers and small business. (Time expired)

Workplace Relations

Senator CHRIS EVANS (2.43 pm)—My question is to Senator Abetz in his capacity of Minister representing the Minister for Employment and Workplace Relations. I note the minister’s interest in media matters
as shown today. Is the minister aware of an article in yesterday’s Launceston Examiner newspaper entitled ‘Pressure of work reforms on Abetz’, which quotes him as saying, ‘Without blowing my own trumpet, my colleagues enjoy each time I get to my feet’? Is the minister correctly quoted in this article, or does he agree with his colleague Senator Ian Macdonald, who commented in question time yesterday that ‘Self-praise is never any great recommendation’?

The PRESIDENT—I ask Senator Abetz to answer those parts of the question that are relevant.

Senator ABETZ—I am absolutely delighted to answer the question. As the honourable Leader of the Opposition was asking his question, every single one of my colleagues agreed with the assertion that was reported in the Examiner. As all my colleagues were supporting me, all of his colleagues were sitting there in absolute disdain at the incompetence of the Leader of the Opposition in this place. I have had feedback from time to time, might I add not only from my colleagues but also from those opposite, saying that they do not understand the Labor Party tactic of giving me so many questions during question time. Senator Evans, rather than reading the Launceston Examiner, spend a bit more time talking with your colleagues, and you might be a lot better off.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. Can the minister indicate which of his colleagues he consulted with prior to advising that they enjoyed listening to him? Is it in fact the case that some of his senior Liberal Party colleagues have instead suggested that the minister has ‘a voice like a dripping tap’ and is ‘arguably the most unpopular politician in Tasmania’?

The PRESIDENT—Senator Abetz, if you want to answer this, you can.

Senator ABETZ—I am delighted to answer. I did not consult any of my colleagues; they consulted me. This is in relation to a reference from a Leader of the Opposition who took his party to the greatest defeat ever and lost his own seat. He made a comment about me, someone who happens to have gained the highest vote ever of any Senate candidate in Tasmanian political history. I can stand here quite proudly with my performance in juxtaposition to that of the former Leader of the Opposition in Tasmania.

The PRESIDENT—I hope we only have one of those questions every session.

Iraq

Senator BARTLETT (2.46 pm)—My question is to Senator Hill, the Leader of the Government in the Senate and Minister for Defence. The question relates to the recent Arab League conference held in Cairo, which was attended by many senior Iraqi legislators from across the political spectrum. Is it the case that the communique from that conference called for a timetable to enable the withdrawal of foreign troops from Iraq? Is the minister also aware of calls by many senior US officials and legislators for action to show that the presence of foreign troops in Iraq is not open-ended? What is the government’s response to these calls, and does the government acknowledge that the perception of an open-ended occupation by foreign troops, including Australian troops, puts Australian citizens and interests at greater risk from those who wish to foment violent opposition to Western governments?

Senator HILL—In relation to the wider issue of withdrawal of foreign troops, I have no doubt that the Iraqi government and the Iraqi people would like foreign troops to remain no longer than is absolutely necessary. No country desires the presence of foreign troops unnecessarily. But, at the moment, it is clear that the Iraqi government cannot ad-
dress the insurgency effectively without the assistance of the multinational force. The insurgency is a cruel and vicious attack on the new Iraqi government and the Iraqi people, and we see examples of it every day. Without the support of the multinational force, the results within Iraq would be even worse. That is the position of the Iraqi government.

From a personal perspective, I received thanks from the Iraqi defence minister last week for the support that Australia is giving in terms of the defence commitment within Iraq. It is also the view of the international community, as expressed in the endorsement of the United Nations Security Council mandate to continue to support the Iraqi government and people through the presence of a multinational force for another year.

Certainly political progress is being made in Iraq, and we look forward to the elections coming up in December. Significant progress is also being made with Iraq building its own security forces. The army is now over 90,000, and the full security forces, including the police, are now up around 200,000. Not only are the numbers steadily increasing—in part due to the support of countries such as ours, which have been providing training and logistics—but also the capability of the force is improving. The time will come when the Iraqi government will, through its own security forces, be able to provide for its own security, and the presence of a multinational force will not be necessary.

That is what is meant by a ‘conditions based withdrawal’. As Iraq becomes able to maintain its own security and to protect its own people, that will be the time for multinational forces to be gradually withdrawn in parallel with that improvement in Iraq’s own capacity.

In relation to the risk to Australia and other countries of not withdrawing, I can assure the honourable senator that, if the multinational force withdraws prematurely and the terrorists win, that will be the greatest benefit to the global terrorist movement that has ever occurred. So Australia is, in fact, contributing to its own security by its presence in Iraq, and it is assisting the Iraqi people towards a stable and better future.

**Senator BARTLETT**—Mr President, I ask a supplementary question. Has the minister or the government made any formal response to calls by Iraqi legislators across the political spectrum, and by a number of other Arab nations in the region, for not an immediate withdrawal of troops but a clear indication that the presence of foreign troops is not open-ended and that a start should be made on setting a clear timetable for withdrawal? Can the minister also respond to comments made by a senior Iraqi minister and former Prime Minister, Iyad Allawi, that human rights abuses in Iraq being carried out by some government agencies at the moment are as bad now as human rights abuses under Saddam Hussein?

**Senator HILL**—A timetable for withdrawal which is not conditions based would clearly benefit the insurgents and terrorists. They would simply have to wait out the timetable, which is not at all difficult. That would be the worst thing for the Iraqi government and the Iraqi people, and that is why we will not endorse such a proposal. In relation to human rights conditions in Iraq: again the conditions in Iraq are obviously far superior to what they were under Saddam Hussein. One need only reflect on Saddam Hussein’s record as a dictator who bombed his own people with chemical weapons. Certainly within Iraq there is still room for improvement in the human rights situation, and the multinational force is committed to working with the Iraqi government towards a
Continuing improvement in human rights in the country. *(Time expired)*

**Australian Customs Service**

**Senator LUDWIG** (2.52 pm)—My question is to Senator Ellison, the Minister for Justice and Customs. I refer the minister to the botched roll-out of the new Customs cargo management computer system. Can the minister confirm the existence of a secret report handed down to Customs known as the ‘August mainframe capacity review’? Can the minister confirm that the executive summary of this report includes a warning that there was a ‘major capacity problem imminent’? Did the minister or his office receive a copy of this report before the system turn-on time of 12 October and, if so, why did the minister authorise the turn-on of a system that clearly was not ready? Did the minister deliberately ignore the clear warning of possible major failure or was he just not on top of his job?

**Senator ELLISON**—This was a highly technical document, some 70 pages in length. It was given to Customs. It did not say what Senator Ludwig is alleging. In fact, as a result of the report in the paper, the chief executive officer of Customs wrote to the editor of the *Australian* putting that newspaper right as to exactly what was involved in relation to that report. That report did not come to my office; it went to Customs. It was a technical report, lengthy in duration. It made a number of comments in relation to the mainframe capacity. I might add that, since March this year, the mainframe capacity has been increased four times, I think. There is nothing unusual in that. It was in preparation for the new system. The final increase was on 15 October after the new system had been brought in.

To give you an idea: the mainframe was upgraded from 1,200 million instructions per second to 1,700 million instructions per second in March. Then it was upgraded again to 3,100 MIPS on 3 July and, in addition, preparations were made for further upgrades. On 15 October, the capacity of the mainframe was increased from 3,100 million instructions per second to 4,120 million instructions per second. There is nothing abnormal in the increasing of the mainframe capacity. In this instance, it was appropriate that it was increased to allow for the increased workload post the changeover. I am advised that the usage is now about 3,000 and that the high usage has now dropped off after the early period after the switch-over of the ICS.

In relation to this report, the letter from Mr Woodward, the chief executive officer, states that the article did not cover any of the statements provided in a media release the day before—that is, that Customs was aware of the required capacity of the system and was confident it had the necessary capability to support the ICS imports, that no emergency upgrade was undertaken and that no messages were lost. That is from the CEO of Customs, who has written to the *Australian* about that article. The fact is that we now have in excess of 99 per cent of usages which are on the new system, and there are only a handful that are relying on the old system. Some of those do not have computer capacity. Customs is dealing with some of those people in order to get them onto the new system. The new industry action group that we have set up is working very well. We have had four meetings. I might remind the Senate that this is a very big project indeed—one of the largest programs in the Southern Hemisphere. The United States is doing the same thing. It is taking them 10 years and costing them $3.2 billion.

**Senator LUDWIG**—Mr President, I ask a supplementary question. Doesn’t the admission by the minister today and by Customs that they were still upgrading the sys-
tem three days after the scheduled change-over date confirm that the minister knew that
the system was not up to scratch but turned it on anyway? Hasn’t the minister’s incompetence now cost Australian business millions of dollars? Will the minister now table that report as well?

Senator ELLISON—I have just said that Customs knew that increased capacity was required. It had been doing that with its mainframe. It would have been negligent not to have that increased capacity available. In fact, it acted on recommendations of that report, as a result of the recommendations made. The increase in the mainframe was no surprise. That was something that was as a result of increased usage. They could do it, they did it and I am happy to say that we now have around 9,000 containers available for collection at Melbourne, Sydney and Brisbane. We are now in the position where some 60 per cent of containers are available for collection, which is about average for this time of year when you get a busy period. This system is one which industry wanted to be put in place and one which we will work with industry to see implemented.

Telecommunications

Senator SANTORO (2.58 pm)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Helen Coonan. Will the minister advise the Senate how the Howard government is helping to build vital communications infrastructure in rural and regional Australia? Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Santoro for a very insightful question. The government is committed to providing vital communications services in rural and regional Australia. This commitment has been amply demonstrated. Since coming to office, this government has spent more than $1 billion improving rural and regional communications. Just last week I called for public comment on programs being rolled out under the Connect Australia package, which will see a further $1.1 billion spent on rural and regional infrastructure.

The Connect Australia program will see broadband infrastructure and new mobile phone coverage rolled out right across Australia. The centrepiece of the package is the $878 million Broadband Connect program, which will replace the highly successful HiBIS program. HiBIS has been very successful in providing ADSL and wireless broadband access to more than 700,000 rural premises, and Broadband Connect represents an opportunity to go much further. It includes eight times the amount of funding originally allocated to HiBIS. It provides more opportunities to deliver sustainable broadband solutions, more room for innovation and certainly more scope to explore the growing range of both new and existing broadband technologies. The $113 million Clever Networks initiative will support the roll-out of new broadband infrastructure networks and innovative ways to improve the delivery of health and education and other essential services in rural areas. Importantly, Clever Networks will strategically focus funding to leverage investment from commercial partners and state governments.

I was asked by Senator Santoro about some alternative policies, and just last week there was an announcement by the opposition spokesman on communications, Senator Conroy. But his plan means that it would result in, I think, if I have read it correctly, two fibre networks being rolled out at great expense: one by Telstra and the other which the government pays for. This, of course, would be a complete waste of money and means that Labor certainly has not learnt from the pay TV network debacle in the 1990s when two networks chased each other
up the street, rolled out side by side down the same streets and in the end neither network was completed. It was a recipe for disaster.

Senator Conroy, of course, now acknowledges the dangers of picking technology winners. That is something that I have been saying since I came into this portfolio. There are great dangers in trying to pick a technology when it changes so quickly and it can be obsolete before it is even provisioned and rolled out. But then Senator Conroy turns around and says that fibre optic roll-out should be the one that is favoured. Of course, a year ago Labor was equally as convinced of the need to spend $5 billion mandating slow dial-up internet. Now they are convinced that it is fibre optic. What Labor fails to understand is that there is already a mix of technologies, a mix of solutions and a number of ways in which customers can access these facilities, depending on their need.

It is important that this plan from Labor is not taken as one that should be given much countenance, because it will fundamentally undermine the competitive environment. It is time Labor got serious about policy instead of leaving the heavy lifting to others. It is extremely important that rural and regional Australians continue to benefit from this government’s policies. (Time expired)

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

QUESTION TIME: RULING

The PRESIDENT (3.02 pm)—Yesterday I was asked by Senator Faulkner whether government responses to committee reports have ever been provided other than in writing, other than at the time provided for tabling of documents and at question time. There have been occasions in the Senate where government responses to committee reports have been provided in those ways. In particular, there have been at least two occasions on which formal government responses to committee reports have been provided at question time in answer to questions and other occasions of informal responses given at question time. These occasions have involved ministers representing both the major political parties. As I indicated yesterday, there is nothing in the rules of the Senate which prevents government responses to committee reports being made in this way. President Sibraa did point out in 1987 that question time is not a suitable occasion for a detailed discussion of government responses, which should occur elsewhere. I agree with President Sibraa’s observation.

Senator FAULKNER (New South Wales) (3.04 pm)—by leave—First of all—

Senator Ian Campbell interjecting—

Senator FAULKNER—It is in the normal course of events, Mr President, as you would be aware—

The PRESIDENT—Senator Ian Campbell, would you withdraw that remark.

Senator Ian Campbell—I absolutely and unreservedly withdraw the reference to Senator Faulkner as a hypocrite.

Senator Forshaw—You smart-arse.

The PRESIDENT—That wasn’t too smart either. I ask you to withdraw that.

Senator Forshaw—I withdraw that and say—

The PRESIDENT—Thank you.

Senator Forshaw—that was not an unconditional withdrawal, Mr President.

Senator FAULKNER—First of all, I thank you, Mr President, for providing me with a copy of the formal statement that you have read to the Senate. I appreciate that very much. I will make a couple of points in response. The first is this: it has become by both convention and practice now the normal procedure in this chamber that government
responses are dealt with on a Thursday afternoon after the opportunity for an urgency motion or MPI. I believe that convention and practice ought to apply in each and every case. And certainly I think that in the case that was dealt with yesterday in question time it should have applied.

I note in your statement that you say that there have been two occasions on which formal government responses to committee reports have been provided at question time in answer to questions. I would have to say to you that I believe the two examples that have been provided to me do not actually indicate that has occurred. The first is an instance of 19 February 1986 which related to a report of the legal and constitutional affairs committee. That was a question asked in this chamber of the then Attorney-General, Senator Gareth Evans. That question was asked by former Labor senator Senator Black and, I might say, it was allowed contrary to the objections of points of order taken at the time by both Senator Missen from the coalition and Senator Jessop from the coalition. Be that as it may, even though that question was asked on 19 February 1986, in my view the formal response to the report was the one that was tabled by the government on 13 June 1986. I think it is pretty clear on that occasion the actual formal response was dealt with at a later stage, some months later.

In the second formal instance referred to in your statement, Mr President, I think it is fair to say that a formal response was provided in question time. I repeat the comments that I made yesterday, Mr President. That was tabled by then Labor finance minister Senator Walsh. Senator Walsh tabled a written government response in answer to a question asked at that time by Senator Richardson. I might say again that he did so over the objections of both Senator Harradine, who took a point of order, and the former leader of the Liberal Party in this chamber and Leader of the Opposition, Senator Chaney, who took a point of order. Anyway, it was allowed, with I think the proviso that you have properly outlined to the Senate, Mr President—those, if you like, qualifying words that then President Sibraa read into the record.

So I think that is a more accurate reflection of what occurred in relation to this matter. I do not accept the arguments, or the examples provided to me by the Clerk, about informal responses to government reports. There have been two occasions during the life of this government, and Senator Minchin was in fact the responsible minister who responded on both occasions. Senator Minchin was asked by Senator Murray on 23 November 1998 whether he had read the Senate Economics References Committee report, and Senator Minchin did not answer that question at all, which of course is a government habit, as we know. And Senator Allison asked Senator Minchin, on 6 December 2000, whether he had read the Senate Environment, Communications, Information Technology and the Arts References Committee report on greenhouse issues. Again, Senator Minchin, as seems to be the habit of the government, did not actually answer the question—though I accept it was informally raised; there is no doubt the issues were informally raised.

I make those comments as, I think, a more fulsome response to this issue. But I think the key point is this: what has become practice and convention in this chamber for these matters to be dealt with on a Thursday afternoon. They are dealt with in our order of business after the time for an MPI or urgency motion, if there is one, and I think it would be better if that practice were conformed to. Why? It is very simple, Mr President: because it is very different to have a government response in writing, as I am sure you would appreciate, from having one infor-
mally given in question time. It means there is more notice and it means there is more opportunity for debate and consideration of a government response. After all, that was the Senate’s intention in its demand for government responses to committee reports. So I think here, in relation to this matter, the government can significantly lift its game, and I think it should.

Senator FERGUSON (South Australia) (3.10 pm)—by leave—Mr President, I listened with interest to Senator Faulkner’s statement, particularly in relation to written government responses to committee reports. With regard to the instances that you quoted in your response to Senator Faulkner, Mr President, and the ones that he spoke about, those decisions by the President were taken at a time when there was only one type of Senate committee. There was no such thing as a references committee and a separate legislation committee. The one committee, the same personnel, did the report for both references and legislation committees.

In recent times, and even in earlier times, when legislation was sent to a committee it was done in order to curtail and contain the length of the committee debate that took place in this chamber, on the legislation. To the best of my knowledge, it has not been the practice of governments in recent times to give written responses to legislation committee reports, where a committee has gone and taken evidence and reported back to the Senate chamber on a piece of legislation. The idea was that it would curtail committee discussion in this chamber—although it has not, I might say, in many ways; but that was the idea. So the government has not given written responses for a considerable length of time to reports on legislation that has been inquired into and investigated by legislation committees. So Senator Faulkner, in his statement yesterday, I believe, was quite wrong in suggesting that the government should give a written response to the legislation that was looked into by those committees. I think that should be taken into consideration when considering this matter.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator LUDWIG (Queensland) (3.12 pm)—I move:

That the Senate take note of answers given by ministers to questions without notice asked by opposition senators today.

Minister Ellison is a minister in crisis. This is a minister who is incompetent in his portfolio, a minister who has no idea of the damage he has done to thousands of small and medium sized enterprises around this country. Above all, this is a minister who has failed. He has failed right across his portfolio, everywhere you look, from criminal law reform to counter-terrorism, financing to missing persons—and the list goes on. But no other failure of his ministry captures the full magnitude of his mismanagement like that of the Customs computer program colloquially known as the cargo management re-engineering project.

This is the history of this sorry saga. Sometime before 1993, Labor in government began planning for an integrated cargo computer system to replace the several that had grown up over preceding decades. Previously, Customs had built a new and separate computer system for each stream of cargo movement. But by 1996 the coalition was in government and $25 million to $35 million was the cost attributed to the re-engineering project. This year in estimates we heard how these geniuses of public policy costed the cargo management re-engineering project, as it was then called. The CEO, Lionel Woodward, told us how the Howard government costed the customs computer program. When
asked why the cost of the project had increased, he said:
The $30 million figure that you refer to was very much a stab in the dark at that time.
That is how the Howard ministry costs its projects. No wonder these second-rate ministers get into trouble when it comes to project management: the natural inclination of these fine economic managers is to play the fiscal version of pin the tail on the donkey.

By 1999, the costs had firmed closer to the $30 million mark. Then, on a fateful day for the success of the project, Senator Ellison came into the Customs portfolio. Using a unique combination of disinterest and managerial neglect, what Minister Ellison succeeded in re-engineering was a massive and exponential cost blow-out. By 2000, $35 million; by 2001, $55 million; by 2003, $146 million; by 2005, $204 million; today, who knows? And will it ever end? Apparently, the fixes will still take a minimum of nine months. This is not just a blow-out to taxpayers; it is a blow to Australian businesses.

I have been contacted by small businesses—like publishers, whose book launches were delayed and whose publicity spend was wasted; by restaurateurs, whose perishable goods have spoiled on the wharves; by retailers, whose goods were not on the shelves early enough for the pre-Christmas sales; by brokers, forwarders and importers, whose businesses literally slowed because of the snail’s pace of the new system. And why are all these people made to suffer? Let me tell you. The thread of the failure can be traced to one source—a lack of ministerial oversight by the Minister for Justice and Customs. The heart of the matter is: the minister threw the switch on a new system which was not ready. That is what we have found out about the project since it was switched on.

On the software side, the Customs Service was still attempting to address critical errors as late as seven days out from the turn-on time. There are possibly hundreds of other errors that were also outstanding and which collectively slowed the system down. On the hardware side, the August mainframe capacity review report showed that the hardware was simply not up to the job. That is right: Customs knew the system was not up to it. The minister admitted in the chamber today that the system was not up to scratch and that it required an upgrade. But he will not table the report. I asked him to table the report. Did the minister say he was going to table the report? No. Why? What is the minister actually hiding? Faced with the evidence, what does the minister do in terms of what the report says? Reckless to the damage he is about to inflict on thousands of businesses, he goes live anyway. That is an unforgivable failure. The information was there for the asking. The minister could have—no, should have—found this out with a bare minimum of effort. Instead, this lazy minister let himself be led down the garden path by the wishful thinking of senior executives of the Customs Service, just as easily as if he was an ox with a ring through its nose. This is the best possible light I can put on these things. The minister should resign. He should pack up his portfolio bag and go home.

We see others in the IT industry already starting to point out what this minister’s incompetence has led to. In the Sydney Morning Herald today, we read the question: What is it about big IT projects that turns otherwise intelligent humans into incompetent nincompoops?

That is what— (Time expired)

Senator FERGUSSON (South Australia) (3.17 pm)—This is a period of taking note of answers to questions, and it would not surprise anybody to realise that Senator Ludwig
was not taking note of the answer to the question, because, in fact, for his whole five minutes, he read a prepared speech—prepared before the minister had even got on his feet to answer a question. So, really, we are probably getting to the stage where we should be changing the name of this period; instead of ‘Taking note of answers to questions’, we should start calling it, ‘Making additional statements that any senator wishes to make in relation to any answer that was given by a minister.’

Senator Ludwig talks about an incompetent minister, and resorts to personal abuse, using the expressions ‘second-rate Minister’ and ‘failures’. Then he talks about things like the minister ‘engineering’ a cost blow-out, as if any minister from either side of this chamber would ever engineer something that would cost the Australian taxpayer extra money. But it is a fact that, at the industry roundtable on 5 July, it was agreed that 12 October was the most appropriate date—

_Honourable senators interjecting—_

**The DEPUTY PRESIDENT**—Order!

Senator FERGUSON—for the cut-over. That was agreed to on 5 July. Any later date would have been too close to Christmas—and the minister has explained that at length to Senator Ludwig, if he had cared to listen to the answer; while a date early in 2006 would have been unworkable, due to the fact that many workers from all industry sectors would be taking annual holidays and then, in fact, would be taking holidays in the lead-up to the cut-over. Postponing the cut-over date to February or March would have been irresponsible, as the existing legacy systems would not receive Unisys support beyond March. Despite extensive testing by Customs and industry before full-scale production, when you have a change of this size to any system, it is inevitable that there will be some difficulties. I do not know of any changeover of such a system anywhere where there have not been some difficulties in that changeover, and the minister has acknowledged that. He has acknowledged that there are some difficulties.

The changes that were made to the system between 21 and 24 October were designed to increase the number of people who could access the system simultaneously, and to deliver performance improvements for each transaction. That was the reason that these changes were put in place. Although there have been complaints, as Senator Ludwig has outlined, Customs have also had feedback from clients that, since 24 October, the system has improved considerably. We have heard no mention of that from Senator Ludwig. He is not interested in listening to those who say that the system is working better, or that it has improved considerably, both in logging in and in system performance. The Customs cargo reporting systems were old and fragile, and they were on a now-unsustainable technology. So it was only—

*Senator George Campbell interjecting—*

**The DEPUTY PRESIDENT**—Order, Senator Campbell!

Senator FERGUSON—Obviously, Senator Campbell, you have never been on a farm. It is quite obvious to Senator Campbell, with his usual interjection. Senator Campbell is having a pretty bad week. He does not want to go to the cricket on Friday, because he does not understand the game. So Senator Campbell is going to interject as often as he possibly can, because it is the only defence that he has. But I will ignore him, Mr Deputy President.

**The DEPUTY PRESIDENT**—Thank you, Senator Ferguson.

**Senator FERGUSON**—I will say this about the systems that existed previously: all of those previous systems focused mainly on
revenue. The new system has been designed and put in place because it captures law enforcement interests as well as emerging issues. Modern technology causes some of these emerging issues, such as intellectual property and other issues. Cargo is moving from wharves and airports. No vessels have been turned away from Australia nor have any been delayed. It is an important part in the changeover process going from the old system to the new system that we have a situation where no-one is turned away, the cargo is moving and nothing has been delayed. It is absolutely important that the opposition get this right and the minister involved— (Time expired)

Senator MARSHALL (Victoria) (3.23 pm)—In attempting to answer Senator Carr’s question today, Senator Abetz demonstrated an incredible lack of understanding about the government’s Work Choices policy and the Work Choices legislation, or he simply did not want to answer the question. Senator Carr talked specifically about penalty rates for public holidays, and he finished by specifically asking the minister why the government will not support the retention of penalty rates for Australian workers. The minister made no attempt to answer this question directly. We know, as he should know, that, according to the Department of Employment and Workplace Relations, the Work Choices bill does not guarantee penalty rates at all for public holidays. It does not guarantee public holidays in any form whatsoever.

Under the Work Choices minimum standard, which is provided for by the incoming legislation that is being debated in the Senate this week, if you are directed to work on a public holiday by your employer, you are required to do so. The bill makes no provision whatsoever for the application of penalty rates. If you are directed to work, you work for single time. Minister Abetz wanted to respond to the specific question by talking about conditions that happen under the current industrial relations system. He talked about arrangements that are currently in place that average salaries over a period of time when workers are required to work at odd times of the day. There are plenty of people who are required to work over weekends and at night time. There are people required to put out newspapers and those in our health system. There are all sorts of people required to do so but, in the present form, every agreement that averages salaries or makes arrangements for those sorts of shift allowances and shift working hours is done against the global no disadvantage test of the award, so the entire award remains as a minimum which all those conditions have to be negotiated around. There is not a single workplace flexibility that cannot be genuinely negotiated now. What the no disadvantage test is ensuring is that no-one is disadvantaged against the award. If you negotiate average salaries across a 12-month period, your penalty rates must, under the current legislation, be absorbed into that rate. You do not lose them; they just also average across the 12 months. The Work Choices bill takes away that no disadvantage test. The only measure that any agreement in future has to measure itself against is the five minimum conditions—the five miserable minimum conditions.

It is very disingenuous of the minister to argue that the Work Choices bill is going to increase wages. We all know that, if you reduce the test that agreements have to be measured against—and that is what this bill actually does: reduce it from the award to five minimum conditions—you are going to receive lower wages. If there is no other reason to, why lower the floor? You can only lower it if you expect wages to be driven down to that bottom level. That is what is going to happen, and that is what we see em-
ployers already lining up to do. How do we know that if the floor is lowered wages and conditions will also be lowered and follow that basic minimum as provided in this bill? It is because we have seen it happen. We saw it happen in Victoria under schedule 1A. When Jeff Kennett referred Victoria’s industrial relations powers to the Commonwealth, he left 360,000 people on five basic conditions in Victoria that were not covered by the federal system and there was no longer a state system to accommodate them. What did we see with those 360,000 people? We saw their wages and conditions reduced over time to the basic five minimum conditions and people’s wages being dropped and driven down to the legal minimum award.

What did we see in Western Australia when they introduced individual contracts into their state system? We saw exactly the same thing. The minute the floor was lowered—the test against which agreements had to be measured was lowered—conditions and wages followed. Of course, we only have to look across at the Tasman with the Employments Contracts Act. What happened when they introduced individual contracts and removed award style conditions? We saw wages drop. Wages that were comparative to Australian wages when they introduced the Employments Contracts Act are now at least 25 per cent lower than they are in Australia. Through all this did we see increased employment? Not once. (Time expired)

Senator McGauran (Victoria) (3.28 pm)—Throughout the whole week, we have been mainly focusing in question time on the issue of industrial relations reform, although I see that Senator Ludwig fruitlessly went off on another one of his gallivants in attacking Minister Ellison in relation to the integrated computer system that we have introduced down at Customs. After flogging that dead horse again, we come back to the issue of industrial relations. My point is that, during the whole week, there has been nothing but exaggeration, beat-ups, hysteria and shrill attacks on this government’s introduction of the industrial relations reforms. We are used to this, and the Australian public is used to this. All your shrilling on every government reform since we have been in government since 1996 has been tested at the ballot box.

Senator Marshall—We can’t wait!

Senator McGauran—Senator Marshall cannot wait for these reforms to be tested. Senator Marshall, we are open to that test at every ballot box, and we will see what happens. But we have form on this, Senator Marshall, as you well know. In 1996, we introduced the industrial relations reforms, which, under any analysis, I would say were a greater leap than these ones. They were the reforms that introduced individual agreements, and we have hundreds of thousands in place today. I would have thought that was a bigger leap. I thought it was a bigger reform in 1996 when we introduced the very tough secondary boycott clauses. Those secondary boycott clauses were very useful during the waterfront reform process. It is my view that the 1996 reforms were a far greater leap than these. I believe these are more of an add-on.

My point is that you use the same exaggeration and the same desperation and have the same debt to the unions now as you had then. This government faced adverse poll reactions in the early stages of that process. What is more, I think the heat was turned up even more then when the union, led by the then President of the ACTU, Jennie George, stormed this parliament. They broke down the front doors, broke through a police cordon and caused serious injury to one policewoman. That is how out of control the unions were on those single reforms. We have faced the heat on this before, we have faced the ballot box on this before and we have faced the polls on this before, and we were
successful because we have a conviction and a belief that reform is needed. You are the ones with the ideological bent. You often come into this place and accuse us of having an ideological bent, but you are the ones with the ideological bent, trying to protect the old ways, the old systems and the old power structures. This government will successfully pass these reforms and they will be tested at the next ballot box, which Senator Marshall so keenly awaits.

Our commitment that no worker will be disadvantaged is our form. Our form is our record, and our record shows that we have the lowest unemployment rate, the lowest inflation rate and the lowest interest rates in 28 years and, of course, we have successfully produced 1.5 million to 1.7 million jobs. You only have to look at the recent riots in France to find out that those old systems are out of date. All the commentators have said that one of the main reasons behind the riots in France has been the generational unemployment rates that occur there. Look at their structural system. Look at the rigidity of their workplaces. If you try and protect the old systems, if you do not modernise and if you do not reform, you will get those sorts of locked-in unemployment rates and you will play with that sort of social danger. I can see from the faces opposite that they have no idea and no clue at all. They want to stay with their old ways. What chance do we have debating the matter with those on the other side? None whatsoever. If they want to test it at the ballot box, we will await it. (Time expired)

Senator FORSHAW (New South Wales) (3.33 pm)—I am almost tempted to move an extension of time for Senator McGauran because he is entertaining, if nothing else. But it is the usual waffle and the usual rant that we get from him. One thing that Senator McGauran did say in his rant was that this Work Choices legislation is really just an add-on. He believes that the gigantic steps were taken in 1996. They were significant changes in 1996 but, of course, what Senator McGauran should remember is that much of what was proposed then by the coalition government and has been proposed since that time in this chamber has fortunately been prevented from being brought into law. This is because of the position in the Senate prior to this last election. Whilst we did not necessarily obviously agree with what the Democrats signed up to in the first round of workplace changes, they did not go all the way with what the government was proposing. Since then, on nearly 50 occasions this government has brought industrial relations legislation into this chamber, particularly in relation to unfair dismissals, and it has been rejected.

Senator McGauran is wrong when he suggests that what is in this amendment bill is just an add-on. Let me remind Senator McGauran that this bill is 687 pages long. It is an amendment bill with 687 pages. It is bigger than the current bill! Why does a 687-page bill need a 565-page explanatory memorandum if it is just some simple add-on? It needs it because there is so much change in the Work Choices bill that it effectively destroys the system of conciliation and arbitration in this country, at both the federal level and the state level. That is the intention of this government.

In his answers to questions without notice—or non-answers, as usual—on this issue, Senator Abetz referred to some of the things that happen now where there is flexibility on hours of work, salaries and penalty rates. And Senator Marshall just eloquently covered this issue as well. If this flexibility is available now under the current system, why change it? I am a former union official and I spent many years negotiating and arguing in the Industrial Relations Commission on behalf of workers in this country. I did it par-
particularly in relation to workers who depend on the award system, such as in the pastoral industry where there is flexibility in respect of hours of work. It has been there for years and years, for decades, because of the special seasonal requirements of rural industries at harvest time and so on.

You see it in the mining industry with fly-in and fly-out operations, where workers will travel into a mine site for two weeks, work 12-hour shifts and then have two weeks off. This happens in many industries. But, as Senator Marshall pointed out, in each one of those cases they are negotiated outcomes whereby the rates of pay, the annualised salary and the leave arrangements incorporate the conditions in the award—the penalty rates, leave loadings, shift loadings and so on. And the industrial relations umpire, the commission, is always there to resolve the differences. That system is being thrown out by this government. I ask the question: why? If this system is working so well, if it is producing these great economic results, why are you seeking to destroy it? You say you stand on your record. The Prime Minister said he stands on his record. His record is one of opposing every national wage increase since 1996. If the government’s submissions in the national wage cases had been successful, workers in this country would be $50 a week worse off. You have no right to claim credit for things that you never achieved.

I am very disappointed that the minister could not answer my question. This is an extremely important issue. I would have thought that, as the Minister representing the Minister for Health and Ageing in this chamber, Senator Patterson would have had a better idea of what the government was doing, particularly given the media attention around the recent incident with the allergic reaction in mice. I await with bated breath the response.

I would like to point out a couple of salient facts. As I pointed out earlier, the Western Australia minister for agriculture announced yesterday that Western Australia will be undertaking some trials to test the safety of genetically modified crops. The minister pointed out that:

... the study will be independent, preventing companies with a vested interest in GM produce from influencing the research results.

This is particularly important when you look at the findings from the CSIRO study on peas modified to resist insects and the impact on mice. The CSIRO was building insecticides into GM peas. The CSIRO put a gene from beans into peas to produce a protein to kill pea weevils. The protein made in the pea is substantially changed. The ANU test results published in the *Journal of Agricultural and Food Chemistry* showed that mice developed antibodies to the anti pea weevil protein, whether raw or cooked. Some mice were also exposed to the GM pea protein through injection into the blood and by inhalation. The first group had a hypersensitive skin response and the others had airway inflammation with mild lung damage.

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This is very significant because it shows that there is a potential for genetically modified foods to adversely impact on human health. Unfortunately, in Australia, as far as I am aware, we do not adequately check the impact on our health of genetically modified
products. These foods are available in human and animal food supplies. They are mostly untested and unlabelled. The Australian Greens have raised the point in this chamber before that we do not know what genetically modified foods we are eating because the information does not appear on labels. There is growing evidence that foods made using gene technologies may be unsafe and yet, despite the fact that there is a very small amount of research done on these foods, we are still allowing them to enter our food chain.

Basically, the Office of the Gene Technology Regulator at this stage relies on evidence from industry about the safety of these foods. The information is unpublished, so it is not accessible for review and there is no peer review of this information. It is exceedingly concerning that in this country we are not testing what we are eating. Australia is moving towards taking up genetically modified crops. Just last week, Senator Colbeck released this report on genetically modified crops, again pushing Australia down the path to genetically modified crops without adequate testing and without an understanding of what these foods could do to human health. If the precautionary principle were adopted, we would immediately go down the line of looking at the impact these genetically modified crops have on human health.

There is growing evidence internationally on this. In the 1990s researchers found that genetically modified soya beans modified using a nut gene triggered an allergic reaction in people in Brazil. It was withdrawn. There have also been major health impacts on experimental rats fed genetically modified potatoes altered with a snowdrop gene to produce, in theory, a poison to kill damaging insects and worms. In Australia we are still at the point where we can make a decision underpinned by knowledge. In America they went full steam ahead with genetically modified crops, planting crops that were supposedly herbicide resistant. Now there are problems with weeds and, potentially, problems with human health caused by GM corn and soya beans. In Australia we are not quite at that point yet, so we have an opportunity to take a step back and put in place processes that look at and test these foods. Already, Australians are eating modified corn, soya beans and cotton oil. We do not know what impact these things are having. *(Time expired)*

Question agreed to.

PETITIONS

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

Trade: Live Animal Exports

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

This petition of undersigned citizens of Australia calls on the Australian government to end the export of live animals from Australia to the Middle East.

Australia has strict laws to protect the welfare of animals—based on sound scientific research and community expectation. It is therefore ethically and morally unacceptable to export Australian animals long distances to countries where they will endure practices and treatment that would be unacceptable or illegal in Australia.

We, the undersigned therefore call on the Australian government to end this trade and in doing so restore Australia’s reputation as a compassionate and ethical nation.

by Senator Bartlett (from 400 citizens).

Industrial Relations

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

The petition of certain citizens of Australia draws the attention of the Senate to the opposition expressed against the Prime Minister’s proposed industrial relations reforms:
To remove safeguards that guarantee equality of bargaining power between employees and employers
To use individual contracts to undercut existing rights
To exempt small business from unfair dismissal laws that impact on vulnerable workers such as casual, women, people with disabilities and people from non-English speaking backgrounds.
To take away the powers of the Industrial Relations Commission to provide simple, effective, no cost independent conciliation and arbitration.
To take away the powers of the Industrial Relations Commission to a fair minimum wage
To remove employment conditions from awards
Your petitioners therefore request the Senate to vote against the above reforms when they are presented to the Senate.

by Senator Nettle (from 255 citizens).

NOTICES
Presentation

Senators Kemp and Lundy to move on the next day of sitting:

That the Senate—

(a) congratulates:

(i) the Australian Socceroos on their historic qualification for the 2006 World Cup in Germany and wishes them all the best for the World Cup campaign,

(ii) the Matildas on their outstanding results achieved recently and wishes them all the best for their campaign against China, and

(iii) Football Federation Australia for undertaking a comprehensive reform agenda in the sport of football over the past 2 years including the implementation of the recommendations of the Crawford Report;

(b) notes the key work undertaken by Mr David Crawford in producing a blueprint for the reform of football in his report of the Independent Soccer Review Commit-

ee into the structure, governance and management of soccer in Australia;

c) acknowledges the important contribution of the Australian Sports Commission to the reform program and supports its development of young football players, particularly through the Australian Institute of Sport Football program; and

d) notes the commitment held by many Australians to football and supports the Commonwealth in its endeavours to support Australian football.

Senator Ellison to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to make various amendments of the statute law of the Commonwealth, to repeal certain obsolete Acts, and for related purposes. Statute Law Revision Bill (No. 2) 2005.

Senator Hill to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to provide for members of the Australian Defence Force and others to be exempt from State and Territory road transport laws in certain circumstances, and for related purposes. Defence (Road Transport Legislation Exemption) Bill 2005.

Senator Milne to move on Thursday, 1 December 2005:

That the Senate—

(a) notes that:

(i) Australia’s trade balance has deteriorated from a surplus equal to 0.1 per cent of gross domestic product (GDP) in 2000-01 to a deficit equal to 3 per cent of GDP in 2004-05, despite a 22 per cent improvement in Australia’s terms of trade over the same period,

(ii) Australia’s exports of manufactured exports have fallen from 33 per cent of our total exports of goods in 1996 to 29 per cent of total exports of goods in 2004,

(iii) the contribution by manufacturing to Australia’s GDP has fallen from 13.5
per cent in 1990 to 10.9 per cent in 2004,
(iv) there have been only 13 financial years since 1959-60 that Australian trade has been in balance, or has recorded a surplus, and that Australia’s trade deficits currently make up approximately 40 per cent of Australia’s record current account deficit of 6.7 per cent of GDP,
(v) Australia’s exports of goods and services have fallen from a 1.18 per cent share of all world exports in 1996 to 0.98 per cent share in 2004 and that had Australia retained its 1996 trade share, imports and exports would roughly be in balance,
(vi) that Australia’s exports to Singapore have fallen by 15 per cent since the free trade agreement with that country was signed in 2003 and that Australia’s exports to the United States of America have fallen by 5 per cent since the free trade agreement with that country was signed in January 2005, and
(vii) that the 6th World Trade Organization Ministerial Conference will be held in Hong Kong from 13 December to 18 December 2005; and

(b) calls on the Government to:
(i) freeze all Australian import tariffs at their current level,
(ii) abandon all bilateral free trade agreement negotiations,
(iii) investigate ways of insulating strategic Australian industries, such as manufacturing industries, from gouging by free trade, and
(iv) abandon its current negotiating position in the Doha round, and instead adopt an approach which seeks to protect key industries from undue import competition.

Senator Bartlett to move on Tuesday, 6 December 2005:
That the Senate—

(a) notes that the recent Australian Local Government Association (ALGA) conference passed a resolution calling on ‘the Federal Coalition Government, the Opposition and all federal politicians to develop a national strategy in partnership with state and local governments and key stakeholders to address the issue of sexual assault on children in Australia’;
(b) congratulates the ALGA for demonstrating its commitment to this important national issue; and
(c) expresses its support for the resolution and for the call for all federal politicians to develop a national strategy on this crucial and pressing matter in partnership with state, territory and local governments and key stakeholders.

Senator Moore to move on Thursday, 1 December 2005:
That the Senate—
(a) recognises that 1 December is World AIDS Day;
(b) notes that:
(i) globally there are currently 40 million people living with HIV,
(ii) AIDS has taken 20 million lives to date and if current trends continue, by 2020, AIDS will have claimed up to 100 million lives, and
(iii) women make up almost half of all cases and are socially, biologically, economically and culturally more susceptible to infection;
(c) acknowledges that microbicides are currently the only woman-centred and empowering prevention method being developed;
(d) recognises that:
(i) research and development of four potential microbicides have just commenced the final stages of clinical trials, and
(ii) substantially increased funding is required to ensure microbicides are available worldwide within 7 years;
(e) commends the Government for committing increased resources towards fighting AIDS, especially in the developing world; and

(f) calls for additional support to be provided for the development of microbicides, which will offer women an effective and empowering means of protecting themselves from HIV infection.

Senator Nettle to move on the next day of sitting:

That the Senate calls on the Government to do everything possible to extradite Mr Nguyen Tuong Van from Singapore to prevent his impending execution.

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) congratulates Geoff and Jason for their same-sex marriage ceremony held in Sydney on Friday, 25 November 2005 and broadcast on radio and wishes them a long, healthy and happy relationship;

(b) accepts the petition being presented in the week beginning 28 November 2005 by 4,545 people calling for changes to the *Marriage Act 1961* to include recognition of same-sex couples;

(c) notes that the Government, with the support of the Australian Labor Party, is yet to recognise the legitimacy of same-sex marriage and, by doing so, infringes the rights of all people to be free from discrimination based on sexuality; and

(d) calls on the Government to end this unfairness against same-sex couples, so that people like Geoff and Jason no longer face discrimination.

**BUSINESS**

**Rearrangement**

Senator McGauran (Victoria) (3.45 pm)—by leave—At the request of the Chair of the Employment, Workplace Relations and Education Legislation Committee, Senator Troeth, I move:

That business of the Senate order of the day no. 1, relating to the presentation of the report of the Employment, Workplace Relations and Education Legislation Committee on the Commonwealth Radioactive Waste Management Bill 2005 and a related bill, be postponed till a later hour.

Question agreed to.

**NOTICES**

**Postponement**

The following item of business was postponed:

General business notice of motion no. 317 standing in the name of Senator Murray for today, relating to Australia’s time zones, postponed till 1 December 2005.

**COMMITTEES**

**Public Accounts and Audit Committee**

**Meeting**

Senator McGauran (Victoria) (3.46 pm)—At the request of Senator Humphries, I move:

That the Joint Committee of Public Accounts and Audit be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 30 November 2005, from 11.30 am to 1 pm, to take evidence for the committee’s inquiry into aviation security in Australia.

Question agreed to.

**Native Title and the Aboriginal and Torres Strait Islander Land Account Committee**

**Meeting**

Senator McGauran (Victoria) (3.46 pm)—At the request of Senator Scullion, I move:

That the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Account be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 29 November 2005, from 5 pm to 7 pm, to take evidence for the committee’s inquiry into Native Title representation bodies.

Question agreed to.
PEOPLE’S INTERNATIONAL PEACE SUMMIT

Senator BARTLETT (Queensland) (3.47 pm)—At the request of Senator Allison, I move:

That the Senate—

(a) notes the initiative of the People’s International Peace Summit in London in November 2005, calling for the creation of Departments of Peace in governments throughout the world in response to the increase in violence of all kinds worldwide, the urgent need to find responsible solutions, expanding on past and present peace-building successes; and

(b) urges the Government to consider establishing a Department of Peace within the Australian Government, the basic functions of which would be to:

(i) foster a culture of peace,

(ii) research, articulate and help bring about non-violent solutions to conflicts at all levels, and

(iii) provide resources for training in peace-building and conflict transformation to people everywhere.

Question negatived.

CHILDREN

Senator MURRAY (Western Australia) (3.47 pm)—I, and also on behalf of Senator Humphries and Senator McLucas, move:

That the Senate requests the Government of the Australian Capital Territory:

(a) to note the response of the Commonwealth Government of 10 November 2005 to the Community Affairs References Committee’s reports:

(i) Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children, and

(ii) Protecting vulnerable children: A national challenge: Inquiry into Australians who experienced institutional or out-of-home care; and

(b) in view of the fact that a number of the recommendations affect the states and territories, to advise the Senate of its response to the recommendations in the reports.

Question agreed to.

Senator MURRAY (Western Australia) (3.47 pm)—I, and also on behalf of Senator Humphries and Senator McLucas, move:

That the Senate requests the Government of the Northern Territory:

(a) to note the response of the Commonwealth Government of 10 November 2005 to the Community Affairs References Committee’s reports:

(i) Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children, and

(ii) Protecting vulnerable children: A national challenge: Inquiry into Australians who experienced institutional or out-of-home care; and

(b) in view of the fact that a number of the recommendations affect the states and territories, to advise the Senate of its response to the recommendations in the reports.

Question agreed to.

Senator MURRAY (Western Australia) (3.47 pm)—I, and also on behalf of Senator Humphries and Senator McLucas, move:

That the Senate requests the Government of New South Wales:

(a) to note the response of the Commonwealth Government of 10 November 2005 to the Community Affairs References Committee’s reports:

(i) Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children, and

(ii) Protecting vulnerable children: A national challenge: Inquiry into Australians who experienced institutional or out-of-home care; and

(b) in view of the fact that a number of the recommendations affect the states and territories, to advise the Senate of its response to the recommendations in the reports.

Question agreed to.
lians who experienced institutional or out-of-home care; and

(b) in view of the fact that a number of the recommendations affect the states and territories, to advise the Senate of its response to the recommendations in the reports.

Question agreed to.

Senator MURRAY (Western Australia) (3.47 pm)—I, and also on behalf of Senator Humphries and Senator McLucas, move:

That the Senate requests the Government of Queensland:

(a) to note the response of the Commonwealth Government of 10 November 2005 to the Community Affairs References Committee’s reports:

(i) Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children, and

(ii) Protecting vulnerable children: A national challenge: Inquiry into Australians who experienced institutional or out-of-home care; and

(b) in view of the fact that a number of the recommendations affect the states and territories, to advise the Senate of its response to the recommendations in the reports.

Question agreed to.

Senator MURRAY (Western Australia) (3.47 pm)—I, and also on behalf of Senator Humphries and Senator McLucas, move:

That the Senate requests the Government of South Australia:

(a) to note the response of the Commonwealth Government of 10 November 2005 to the Community Affairs References Committee’s reports:

(i) Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children, and

(ii) Protecting vulnerable children: A national challenge: Inquiry into Australians who experienced institutional or out-of-home care; and

(b) in view of the fact that a number of the recommendations affect the states and territories, to advise the Senate of its response to the recommendations in the reports.

Question agreed to.

Senator MURRAY (Western Australia) (3.47 pm)—I, and also on behalf of Senator Humphries and Senator McLucas, move:

That the Senate requests the Government of Victoria:

(a) to note the response of the Commonwealth Government of 10 November 2005 to the Community Affairs References Committee’s reports:

(i) Forgotten Australians: A report on Australians who experienced institu-
Australia’s future oil supply, with particular reference to:

(a) projections of oil production and demand in Australia and globally and the implications for availability and pricing of transport fuels in Australia;

(b) potential of new sources of oil and alternative transport fuels to meet a significant share of Australia’s fuel demands, taking into account technological developments and environmental and economic costs;

(c) flow-on economic and social impacts in Australia from continuing rises in the price of transport fuel and potential reductions in oil supply; and

(d) options for reducing Australia’s transport fuel demands.

Question agreed to.

IRAQ

Senator NETTLE (New South Wales) (3.49 pm)—I move:

That the Senate—

(a) notes:

(i) the admission by the Pentagon that forces of the United States of America (US) used white phosphorus weapons in the 2004 assault on the Iraqi city of Fallujah,

(ii) that the recent Arab League sponsored Iraqi National Accord Conference held in Egypt demanded the ‘withdrawal of foreign forces in accordance with a timetable’, and

(iii) that US Democrat Representative John Murtha, reflecting US public opinion, has described the Iraq occupation as ‘a flawed policy wrapped in illusion’ and has called for the ‘immediate redeployment of US troops’; and

(b) calls on the Government to withdraw Australian troops from Iraq.

The Senate divided. [3.53 pm]

(The Deputy President—Senator JJ Hogg)
Ayes............ 7
Noes............. 49
Majority........ 42

AYES
Allison, L.F. Bartlett, A.J.J.
Brown, B.J. Milne, C.
Nettle, K. Siewert, R. *
Stott Despoja, N.

NOES
Adams, J. Barnett, G.
Bishop, T.M. Brandis, G.H.
Brown, C.L. Campbell, G.
Carr, K.J. Chapman, H.G.P.
Colbeck, R. Crossin, P.M.
Eggleston, A. Ellison, C.M.
Faulkner, J.P. Ferguson, A.B.
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Forshaw, M.G.
Hogg, J.J. Humphries, G.
Hurley, A. Johnston, D.
Joyce, B. Kemp, C.R.
Kirk, L. Lightfoot, P.R.
Ludwig, J.W. Lundy, K.A.
Macdonald, I. Marshall, G.
McEwen, A. McGauran, J.J.J. *
McLucas, J.E. Moore, C.
Nash, F. O’Brien, K.W.K.
Parry, S. Payne, M.A.
Polley, H. Ronaldson, M.
Santoro, S. Scullion, N.G.
Sherry, N.J. Stephens, U.
Sterle, G. Troeth, J.M.
Trood, R. Wong, P.
Wortley, D.

* denotes teller

Question negatived.

DEATH PENALTY

Senator BOB BROWN (Tasmania) (3.57 pm)—I ask that general business notice of motion No. 332, which moves that the Senate expresses its abhorrence of the death penalty, be taken as a formal motion.

The DEPUTY PRESIDENT—Is there any objection to this motion being taken as formal?

Senator Ellison—Yes.

Suspension of Standing Orders

Senator BOB BROWN (Tasmania) (3.58 pm)—I note the government’s objection. Pursuant to contingent notice, I move:

That so much of the standing orders be suspended as would prevent me moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business notice of motion no. 332.

I put that the matter has urgency but I can indicate that I believe that the government will support that motion.

Question agreed to.

Procedural Motion

Senator BOB BROWN (Tasmania) (3.58 pm)—I thank the Senate and I will move this motion, that it be dealt with immediately—

The DEPUTY PRESIDENT—Senator Brown, you need to move the precedence motion.

Senator BOB BROWN—Yes, I am doing that, Mr Deputy President. I intend to move that it be moved immediately and have precedence over all other business until it is determined. I reiterate—

Senator Chris Evans—Mr Deputy President, I rise on a point of order. I understood that the government was going to seek cooperation to amend Senator Bob Brown’s motion to indicate opposition to the death penalty. Labor was certainly keen to support that. I do not quite understand why we have ended up with this suspension.

The DEPUTY PRESIDENT—Formality was denied. Senator Bob Brown sought a suspension of standing orders so that this could take precedence over all other business. That is the stage that we are at.

Senator Chris Evans—On a matter where all senators are, as I understand it, in furious agreement, it seems that the govern-
ment could have negotiated a better outcome, rather than delay the Senate. I may have missed something.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.00 pm)—by leave—The government would seek to amend the motion by omitting ‘abhorrence of’ and substituting ‘opposition to’. It is a question of just two words. Certainly, we are not opposed to the sentiment of the motion. This is the only way that we could do this, having denied formality, because Senator Bob Brown would not agree to us having leave to amend. This was a mechanism to accommodate all those interested. Senator Chris Evans is right: there is general agreement as to the sentiment. But it is the wording that is at issue, and we seek to replace ‘abhorrence of’ with ‘opposition to’. The reasons will be made clearer in the course of the debate. We would not seek that the debate be unduly prolonged.

Senator BOB BROWN (Tasmania) (4.01 pm)—I move:

That general business notice of motion No. 332 may be moved immediately and have precedence over all other business today till determined.

Question agreed to.

Motion

Senator BOB BROWN (Tasmania) (4.01 pm)—I move:

That the Senate expresses its abhorrence of the death penalty.

Words do matter. Only two weeks ago the Senate was recalled to change one word—‘the’ to ‘a’—at the request of the government, which demonstrates how much words do matter in matters like this. The government will move to amend this motion, changing the word ‘abhorrence’ to ‘oppose’. I hear that the opposition will agree with that amendment. The Greens have not agreed with that amendment for the very strong reason that we do abhor the death penalty. We believe that Australians abhor the death penalty and that it should be stated in those terms. If you go to the Macquarie Dictionary you find that ‘abhorrence’ means ‘a feeling of extreme aversion’ and ‘something detested’. I do not believe that the government or the opposition disagree with that. Certainly the Greens do not, and I would be surprised if the Democrats did not feel the same way.

What is important here is that we state exactly how we feel about the death penalty. It is not simply a matter of opposing it; it is about why we oppose it. We oppose it because it is inhumane, it is irreligious, it cuts across the sanctity of life, it is barbaric and it has long been expunged from the Australian way of life. It is important that we make sure that our neighbours and people around the world understand why we do this. It is not just a matter of opposition; it is a matter of abhorrence.

We are facing the situation where, on Friday morning, a young Australian will be hanged in Singapore, needlessly, when he should be facing a prison sentence and repatriation to this country to serve that sentence. I say ‘needlessly’ because expertise has shown time and again that hanging someone like Van Nguyen is not going to alter the rate of criminality in Singapore or anywhere else. It is a manifestation of the feeling of power and the brutishness which comes with that from past ages, which civilisation requires that we overcome. It is our job as a nation to state to the world that abhorrence of capital punishment is part of the Australian values system—and so we should state it. It is absolutely essential that our political leaders look other political leaders in the eye and say that we not only oppose the death penalty but also abhor it—this needless judicial murder, which is what the death penalty is, and this political direction of needless judicial mur-
I reiterate that on Friday morning this young man, Van Nguyen, will be put through hours of ritual at the hands of the decision makers in Singapore, which is macabre, disgusting and abhorrent. He will be taken out of his cell at about two o’clock in the morning, given a light meal, dressed up in a suit, photographed in various poses—including behind a desk, if past performance is our guide—then taken to the gallows to endure a needlessly cruel, nasty, brutish killing. Together with that, the Singaporean authorities will not give leave to his mother to hug him in the week leading up to that dreadful event. Is there anybody here who does not abhor this brutishness, this nastiness, this disgusting not just judicial act but political decision? Singapore has had so many opportunities, Prime Minister Lee, to end the process to this disgusting outcome and has not taken any of them. Should we just say, ‘We oppose that but we don’t abhor it’? Of course we abhor it, because it is abhorrent.

I do not believe that the opposition or the government think otherwise, so why pull the punch? Why not say so? Why not be up-front about it? Why not be honest and say that this nation abhors judicial murder, the death penalty? Can we not be honest with our neighbours in this matter? Are we frightened of the Singaporean government? Are we frightened of politicians who have a different point of view? Is trade so important that we cannot speak our mind on utterly important matters of life and death and on the decision to be able to divine between the two and to decide on one or the other, as in this case? Of course we can and of course we should. We should be able to state quite clearly and directly that we abhor what is going to happen to young Van Nguyen, and we should be able to state it directly as a nation and as a Senate.
passed at the ALP national conference in 1987 after the hanging of Barlow and Chambers—that their former leader, Bob Hawke, was somewhat outspoken, and appropriately so, as indeed was their foreign affairs minister at the time, who I believe was Hayden. They moved a motion—and I will check the wording; I am not sure whether they ‘abhorred’ or ‘condemned’—in which their opposition was clear in no uncertain terms to that particular barbaric act.

We are signatories to the optional protocol. As a nation and government, we have an obligation not only to oppose the death penalty and not allow it in our own country but also to work towards the abolition of capital punishment either in law or in practice, as at least 121 nations have done. We are obliged to see that happen. We are having a debate today on the words ‘opposing’ and ‘abhorrence’. I am almost speechless, but unfortunately for all in this place I am not. I am just staggered. We are talking about state sanctioned killing.

**Senator Carr**—What has this got to do with us?

**Senator STOTT DESPOJA**—Do not bait me, please, Senator Carr, through you, Mr Acting Deputy President. Senator Carr, I know your politics, and I know and I would like to think that the majority of people in this place are unanimous in this. The words speak for themselves. Senator Bob Brown has not accepted an amendment from this government on the basis that ‘oppose’ is insufficient. If you want to add ‘oppose’, add ‘oppose’ and ‘abhorrence’. How can you possibly oppose—

**Senator Carr**—You’ve got the wrong end of the stick.

**Senator STOTT DESPOJA**—Oh, they have changed their minds. I will apologise on record. I suspect that this is a debate that the Labor Party and the Greens will clarify. My understanding was, and I was informed, that the Labor Party were opposing—

**Senator Ludwig**—We haven’t said that in here.

**The ACTING DEPUTY PRESIDENT (Senator Lightfoot)**—Order! Senator Ludwig, that is not for you to debate on this occasion.

**Senator STOTT DESPOJA**—I look forward to the comments from the Australian Labor Party. I am happy to apologise to them and withdraw on record my anger towards them. I am sure they and their honourable colleagues would understand that I was led to believe, as indeed has been stated in this place, that they were not supporting initially this motion. That was our understanding: they were not supporting initially this motion. I am glad to hear that they are. So I am quite happy to redirect my entire anger, frustration and sadness towards the government. Could they possibly have an argument that will satisfy this place as to why they will not support the word ‘abhorrence’ in this motion? This country abhors the death penalty. That is why I believe that in July 1991 we became a signatory to the optional protocol to the International Covenant on Civil and Political Rights. Nothing has changed in this government’s history, agenda or policy, as I understand it, that we would no longer abhor the death penalty.

If the government do not have a reasonable excuse, surely they will back down and support Senator Bob Brown’s motion which is before us today. I look forward to hearing the minister’s argument. I hope that the government will continue to speak out not only in the specific case of capital punishment in the case of Mr Van Nguyen and in cases of Australian citizens that may be on death row or executed, but also in cases involving any citizen, including citizens of other countries. Our governments and our leaders on both
sides have a responsibility to speak out against capital punishment and to not merely resist or oppose it, but to abhor it.

The Democrats will be supporting this motion. I understand from discussions taking place that all non-government parties will be doing so. I look now towards the government to justify, not only in this particular week of all weeks, but also at any time in their policy agenda, how they could possibly quibble over the words ‘abhorrence of the death penalty’, recognising that it is the ultimate inhumane and barbaric act.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.15 pm)—So that we can focus the debate, I will move an amendment to Senator Bob Brown’s motion. I move:

Omit “abhorrence of”, substitute “opposition to”.

It is a fairly simple amendment. It would simply mean that instead of the Senate expressing its ‘abhorrence of’ the death penalty it would be expressing its ‘opposition to’ the death penalty. That might seem on the surface to be quibbling about terminology, as Senator Stott Despoja puts it. But this really is quite a serious debate. That is why we thought there should be an opportunity for this issue to be canvassed in the Senate. Australia has made its position very clear in its opposition to the death penalty. We have in our legislation dealing with extradition and mutual assistance in criminal matters provisions which do not allow a minister to surrender someone to another country where they are liable to execution.

This is a serious matter; it is not quibbling at all. In fact, this week of all weeks, as Senator Stott Despoja says, we should be ever mindful of it. And that is exactly what we are. We are mindful of the situation and the choice of language that is used. ‘Abhorrence of’ is a term which is more emotive and extreme. In the circumstances we believe that our opposition should be spelt out as just that: opposition to the death penalty. It should be spelt out in a rational, dispassionate manner. We should not bring emotion into the debate which could well hamper other efforts being made in relation to the Van Nguyen matter.

I want to spell out Australia’s record and position in relation to its opposition to the death penalty. The Extradition Act 1988 forbids the minister from surrendering anyone to a country where they are liable to execution. Just recently, I required of the Singaporean government an undertaking that it would not execute Mr McCrae, who was wanted there for murder. Once we had that undertaking we agreed to his surrender to Singapore. I might add that Mr Robertson SC, was wrong when he said on the ABC today that we surrendered Mr McCrae for a lesser charge. We did not surrender him for a lesser charge; we surrendered him only on the basis that there would be an undertaking that the death penalty would not be applied. We could do that because Mr McCrae was in our jurisdiction and the Australian law had application. Mr Van Nguyen of course is in another country and under its jurisdiction, so we do not have the same remedies available to us.

In our Mutual Assistance in Criminal Matters Act 1987 we also have provisions which forbid us from providing official assistance to other countries where the death penalty could be applied. That requires the minister to consider the act, and of course the minister concerned is bound by that act. We apply that across the board. There has been some suggestion that in some way we are treating countries differently. We have the same situation with the United States, which frequently executes its citizens. When I say ‘frequently’, I mean frequently relative to international standards. The same law would ap-
ply to the United States as it does to Singapore and as it would to Vietnam, Indonesia or any other country where the death penalty is applied. The Australian government and previous governments have made it very clear that we oppose the death penalty. We have demonstrated that not only with our legislation but also with our actions and by signing the protocol that Senator Stott Despoja mentioned.

When you look at international instruments, you do not often find the language of emotion. You do not often find language which is colourful or extreme. You find language which spells out the situation. We believe that in this case we should extract from the argument any emotion and place on record our clear opposition to the death penalty—no more; no less. You do not have to demonstrate or convince people of your opposition by using language which is more extreme and perhaps more emotional. That is especially so in the week in which we find ourselves in relation to Mr Van Nguyen’s unfortunate situation. The Australian government is on record as having done everything possible to avoid the execution being carried out in Mr Van Nguyen’s case. Yesterday, I said in the Senate that there have been over 30 representations made by the Prime Minister, senior ministers of the government and the Governor-General in relation to Mr Nguyen’s situation. Indeed, I made a representation in Singapore to the Singaporean government four days after his arrest.

I do not think that in this chamber we can point the finger at each other and say, ‘Because you do not want to use the word ‘abhorrence’ you are in some way more culpable or acquiescent in relation to the execution of an Australian citizen.’ I can point to other areas where the Commonwealth government have made it very clear that we do not believe in the death penalty. Look at the legislation which provides for terrorist acts which can or do result in death or the death of an Australian citizen overseas. These most extreme criminal offences come within the federal jurisdiction. And what do we provide for? We provide for life imprisonment; we do not provide for the death penalty.

Offences such as murder are in state and territory jurisdictions. None of those jurisdictions in Australia has the death penalty. That is a position supported by the Commonwealth government. We have moved this amendment on the basis that it clearly spells out our opposition to the death penalty. It makes us no more and no less opposed to the death penalty than those who would say that they abhor the death penalty. But we believe that, in the choice of language, we have to be rational and dispassionate and take out any emotion from the argument as I believe it does not help the situation.

Chambers and Barlow were mentioned. I remember very well that circumstance. I was practising criminal law in Perth. Ron Cannon represented Chambers and Frank Galbally represented Barlow, if my memory serves me correctly. There was an article just recently which touched on the way those two cases were handled. I will not go into detail other than to say that there was a strong school of thought that a less critical approach of the Malaysian judicial system would have been more beneficial. I think that Ron Cannon, the Perth barrister who represented Mr Chambers, was certainly of that view and adopted a different tack to Mr Galbally in that case. There was a good deal of controversy at the time.

I think that we have to be very careful in our approach in this matter. You can still spell out your opposition to something as serious as the death penalty without having to say that because you do not abhor it you are in any way making less of a stand. This government relies on actions to demonstrate
its stand. Legislation which is being put in place spells out very clearly the position of the Australian government. That is the position of the government. As stated by the Prime Minister and others, we will continue to keep working to resolve favourably the situation of Mr Nguyen. But, as we have said, we are pessimistic as to the outcome. Unfortunately, that is the position. But we believe that the choice of words in this case is very important for the reasons that I have outlined. I can understand Senator Bob Brown’s feelings on this matter and those of others. But the government believes that the word ‘opposition’ is much more preferable to ‘abhorrence’ for the reasons I have mentioned.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (4.25 pm)—I rise more in sorrow than anything else to join in this debate because I really do not understand why we are having it. I indicated earlier that I thought it was possible for us to resolve around the chamber a matter of such seriousness, one which I think is generally widely if not unanimously supported across the Senate—that is, opposition to the execution of this young man. I would have thought it was possible for us to actually come together and find a form of words that reflected that widely held sentiment. I was obviously mistaken about that. We have had what I think has been a fairly unseemly debate.

I indicate on behalf of the Labor Party that we would have preferred that it had been resolved unanimously. When this young man is within days of being executed, for us to be debating the semantics of ‘abhorrence’ versus ‘opposition’ does not do the Senate chamber any great credit. I am not going to join in the semantics debate, but I do want to indicate that Labor has been opposed to the death penalty for many years. Our policy actually says ‘prohibit’ the imposition of the death penalty. But I do not want to get into semantics.

We indicated to Senator Bob Brown earlier that we would support his resolution. I will honour that because we did indicate at the time that it was appropriate and we are comfortable with that. As I said, the government has raised some objections. I really just do not think it is the time to have that sort of debate. I think we all feel strongly that this man ought not to be executed. Certainly, I and the Labor Party feel very strongly that the death penalty is not the answer in any case. Formally, on behalf of the Labor Party, I indicate that we will vote for Senator Bob Brown’s motion and we will vote for the motion if it is successfully amended by the government as well. I really think we ought to focus on the issue at hand, which is doing all we can to save this young man’s life and not have, quite frankly, a rather disappointing debate about semantics in the parliament.

Senator NETTLE (New South Wales) (4.27 pm)—I think the issue of the death penalty is something that should be debated on the basis of principle. I agree with Senator Evans’s comment that it should not be about semantics. I think it should be about principle. I also think it should be about consistent principle, which means that, where we oppose the death penalty, as the Australian Greens do, and where we abhor the death penalty, as the Australian Greens do, we do so in all circumstances. It is not just an issue of whether or not we have the death penalty in our domestic law, which we do not. It is not just an issue of whether or not the Australian government makes representations in relation to Australians who may face the death penalty overseas. If we truly want to enact what we signed onto in 1989—that is, the second optional protocol against the death penalty, which is about us being part of a global movement to abolish the death penalty—that means we need to oppose the
death penalty in all circumstances. I think that is what is important.

That is why I am not proud of the record of either the government or, indeed, the opposition. In the past they have been quite willing to come out and support the death penalty in relation to particular individuals. They were not Australians. Nonetheless, the death penalty does not differentiate between people on the basis of their nationality. The death penalty is final. It does not matter who they may be, what their nationality may be or what they may have done. The death penalty is the end of their life. The position that the Greens take on this issue is that that is never right. The death penalty is more about revenge than justice.

As part of a civilised Western democracy, we support justice; we do not support revenge. That is why we abhor the death penalty in all circumstances. That is why it is disappointing to see comments by the Prime Minister and former Labor leaders that, in certain circumstances, they do support the death penalty. It leads to a position where, when Australia seeks to get clemency for a person like Van Nguyen, the support that Australian leaders of both the major political parties have offered for the death penalty is thrown back in their faces. It is worth noting that at the time of those comments—in relation to Amrozi, one of the Bali bombers—a Labor backbencher, Duncan Kerr, said:

I do believe that in future there will be times when we will want to make representations against the death penalty, and our failure to do so in this case will be thrown back in our face.

That is exactly what has happened. We have heard in the last couple of weeks the Singaporean government asking, ‘Why do you come pleading for clemency in the case of Van Nguyen when the Prime Minister and opposition leaders—both Mr Crean and Mr Latham—have previously supported the imposition of the death penalty?’ That is why I said in my opening comments that this should be an issue of principle, and the position of principle that the Australian Greens take is to oppose the death penalty in all circumstances.

The debate that we are having today is about whether that is the case for the Australian government and all of the political parties represented here. I think that, when we look back at the recent track record, we can find comments from both our Prime Minister and the leader of the Labor Party that, in certain circumstances, show they have supported the death penalty. So while we are having this debate right now about whether we oppose and abhor the death penalty, we have to look at why the government is seeking to change the terminology in this way. I look at the track record, the evidence and the comments that have been made. That is where I look for guidance for why the government might be doing this. This is diplomatic language, where the government does not feel like it is able to use what Senator Ellison described as ‘emotive words’ to oppose the death penalty.

Senator Ellison said he wants to be dispassionate. I intend to be emotive about the death of an Australian citizen, and I intend to be passionate about the life of an Australian citizen. I will not sit back and be dispassionate about a young, 25-year-old man’s life disappearing at 9 o’clock on Friday morning. He is going to be killed by the state apparatus of Singapore, and that is not something which I will sit back and be dispassionate or unemotive about. I abhor the death penalty, and not just in the circumstances of Van Nguyen but across the board and consistently. We, as a country that have signed on to an international agreement that we will work as part of a global movement for the total global abolition of capital punishment, should be doing the same.
I acknowledge the enormous difficulty that the Australian government is having right now in seeking to get the Singaporean government to provide clemency in the case of Van Nguyen. That has been made more difficult by comments by our Prime Minister and Labor leaders supporting the death penalty in certain circumstances. If we want to ensure that pleas for clemency for Van Nguyen or one of the other 11 Australians—young Australians, as young as 17—who currently face the death penalty in Indonesia, Singapore and Vietnam are accepted, then we need to be consistent in our position and we need to continue to uphold the international agreements we have signed on to for the total global abolition of capital punishment. Without doing that and without leading in our region a movement for the total abolition of capital punishment, we find ourselves in the difficult circumstances that the government is currently in in relation to the case of Van Nguyen, where comments that have previously been made by our Prime Minister are thrown back and where questions are raised about hypocrisy and the inconsistency in the stance of the government in relation to the death penalty. I do not want to see those comments thrown back at Australia, because I do not want Australia to be seen as being inconsistent in its opposition to and abhorrence of the death penalty.

So it is important that the Senate today sends a strong message to the Singaporean government. I think it is important that the government be prepared to stand up—to be what I do not think should have to be brave and courageous—and state its abhorrence of the death penalty. If the Australian government wants to convince and make clear to not just the current Singaporean government but the Indonesian government or the Vietnamese government, which has on its books the ending of the life of a 17-year-old boy in the coming months or years, what the Australian government’s position on the death penalty is, today is the opportunity to do that. By supporting this motion, the Australian government will show that it abhors the death penalty. The Australian Greens abhor the death penalty, and we call on the Australian government to join us in that abhorrence of something that so cruelly ends people’s lives. Regardless of who they are and regardless of the circumstances, we abhor the ending of people’s lives in this way, and we will continue to uphold what Australia has signed on to, which is to commit ourselves to the total global abolition of capital punishment in all circumstances. I commend this motion.

Senator BOB BROWN (Tasmania) (4.36 pm)—The Greens oppose the amendment to water down this very clear statement of abhorrence of the death penalty to a situational statement of opposition. If the motion were simply reiterating opposition, the need for the motion would not be there. What I ask the government to reflect on, as it calls for there not to be a motion in this place, is the sheer humanity that we must reflect in our parliament if we are to reflect the feelings of the Australian people and, indeed, people elsewhere. We are human beings; we are not machines. When the government calls for us to be rational and dispassionate, does it really want us all to be like Attorney-General Ruddock? Do we all have to become dispassionate about people suffering inside and outside our country? Of course we do not. We are emotional human beings. The fact is that Australians do abhor the death penalty.

We are going to hear a debate in coming weeks about a pill which allows for the early termination of pregnancy. We will hear a lot of emotion in that debate—and that is how it should be. But there is a double standard in here to say, ‘Let’s have a conscience vote on that motion and let people express their opinion,’ but, when it comes to a government coralling of all members on the judicial kill-
ing of a young Australian aged 25, we must suddenly be rational and non-emotive. That is nonsense and it does not reflect what we are as Australians and it does not reflect what we are as human beings.

The Minister for Justice and Customs says that we should not bring emotion into this debate. There is emotion in here on the greatest range of issues—on taxes, on workplace arrangements, on the way we treat the environment, on how migrants are treated, on our education system and on our health—but suddenly the government says that, when it comes to the impending death of a young Australian in Changi prison, we must not be emotional. What an extraordinary denial of the predicament that we as Australians find ourselves in—being unable to get that man out of that prison and brought here for the lengthy prison sentence that the Australian judicial system would have given him.

And what a wrong message it sends to our neighbourhood and, indeed, to the United States and China that we are not big enough, not mature enough and not direct enough to say that we abhor this barbaric killing of human beings under this thousands of years old dictum of an eye for an eye and a tooth for a tooth. We should be advocating that the whole world move on. It is going to need greater humanity and greater compassion right around this world, not just in this country, if we are to survive in an age of mass destruction, human weapons, terrorism—both state and individual—and the abuse of science and technology against human beings.

Of course we have a right to be emotional about this. Of course we have a right to be passionate about this. We have an obligation to be emotional and passionate about this. The government should never have moved to water down this motion. The government should never have moved to change the terminology of it. I do not believe the government represents its members in making the decision to amend this motion. Maybe it is providing some protection for a Prime Minister who in other circumstances has seemed to encourage rather than disdain the death penalty in our neighbourhood. We oppose this amendment. We stand strongly for abhorrence of the death penalty. This motion should go ahead as stated.

Question put:
That the amendment (Senator Ellison’s) be agreed to.

The Senate divided. [4.47 pm]

(The President—Senator the Hon. Paul Calvert)

Ayes…………… 34

Noes…………… 30

Majority……… 4

AYES

NOES
The Acting Deputy President—

In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Report No. 17 of 2005-06—Performance audit: Administration of the Superannuation Lost Members Register: Australian Taxation Office.

Senator Sherry (Tasmania) (4.50 pm)—by leave—I move:

That the Senate take note of the document.

I want to make a few brief comments about Auditor-General report No. 17 on the administration of what is known as the superannuation lost members register. This is a register administered by the Australian Taxation Office on behalf of Australian taxpayers—in this case, lost superannuation members. The administration of the superannuation lost members register is very important because of both the substantial amount of lost moneys and lost accounts in Australia’s compulsory superannuation system.

There was approximately $7.3 billion and some 4.7 million lost accounts in the 2003-04 financial year. Lost superannuation monies, if they are not claimed by the time the member reaches the age of 65 or has died, are deemed to be unclaimed and pass to state government consolidated revenue. From a retirement income perspective, it is very important for the 4.7 million Australians who have a lost superannuation account to claim the money before they turn 65. An account is declared lost if the member is not contactable—and that means that no address details are held or the annual report to the member has been returned with no known address for forwarding—and the account is inactive, which means that there have been no contributions for the past two years. The law requires that superannuation fund providers lodge details of lost member accounts, including tax file number where quoted—and I stress that, because it is not compulsory for a superannuation fund member to provide the TFN to a fund. This is a very important issue, and I will return to it shortly.

The Audit Office’s objective was to assess the ATO’s administration of the lost members register. Specifically, it was to examine the governance of the lost members register and the systems, processes and controls used to process the membership of the lost members register, along with those used to ensure that superannuation funds were complying with the law by reporting to the register the details required. There are a number of issues regarding the ATO’s administration in this area that are highlighted in this report by the Audit Office that are worthy of note, and in some cases concern.

In chapter 2, the report highlights that the ATO have significantly restructured governance arrangements over the past 12 months. This restructuring of governance has in large part come about as a result of a previous Audit Office report—No. 39—into the superannuation contribution surcharge, which the tax office also administer. This previous Audit
Office report—which I have spoken on—exposed what frankly was an absolute shambles in the tax office in respect of the administration of a range of superannuation provisions that the tax office have responsibility for. In the case of the superannuation contribution surcharge tax, there was found to be—due to inadequate data-matching systems and record keeping within the tax office—literally hundreds of millions of dollars that could not be collected in surcharge tax on superannuation and hundreds of thousands of transactions that could not be data matched.

As a consequence of that, the ATO have made a determined effort to upgrade their very poor management and governance with respect to all superannuation matters—although I am not sure whether the problems have been totally fixed one year on. This is the improvement in governance that is referred to and which has flowed on into governance of the lost members register within the ATO. The Audit Office reports also that the cost of administrating the lost members register was not readily available or identifiable. This seemed to indicate that the tax office were subsidising the administration of the lost members register. The Audit Office recommends that the ATO ensure that the cost of running the register is properly and fully identified and that their reporting satisfies cost recovery policy.

In chapter 3, it is reported that in order to access data on the lost members register by Australians, a TFN quotation is critical. When a member checks the lost members register—and there are 4.7 million lost members—identifying their TFN is critical. However, the reporting by providers of TFN is low—only 37 per cent. The ATO can data match using other data that they have in hand and can increase the tax file number identification to a figure of 81 per cent. However, it becomes very difficult, if not impossible, for the remaining 19 per cent of 4.7 million people for which no tax file number is identified—hundreds of thousands of Australians—to use the lost members register to identify or find their lost moneys and to go to the fund to consolidate it or roll it together.

Despite the fact that the ATO does data match and identify a very high proportion of TFNs, the Audit Office found that the ATO’s data matching is considered to be unreliable. This is of concern given the critical nature of the TFN in the system. If it is unreliable, a much greater proportion than that 19 per cent to which I have referred would not be able to find their lost superannuation money. This key deficiency in our superannuation system—the lack of tax file numbers which can be used as the master identification number—comes about because there is no compulsory requirement for Australians to provide their tax file number to a superannuation fund or provider when they join a particular superannuation fund. The Audit Office does not make a recommendation on this. The level of recovery of lost superannuation moneys would be much higher if the giving of a TFN to a superannuation fund was made compulsory.

The Labor Party have long urged that the provision of tax file numbers should be made compulsory within the superannuation system in order to reunite Australians with or help them recover their lost superannuation. It seems to us deficient policy that tax file numbers are not compulsory within our compulsory superannuation system. In this case it would go to a very worthy cause. It would help reunite millions of Australians with their lost superannuation. It would certainly ensure a much greater recovery rate and ensure that moneys do not flow on ultimately to consolidated revenue but to the members who own those moneys.
Also of great concern on compliance has been the failure of the ATO to ensure that funds lodge and provide accurate data. Disturbingly, some larger providers have confirmed that data provided in the past was inaccurate. Consequently, the level of lost money is likely to have been underreported and, where reported, inaccurate. It was also revealed that there were two instances of unauthorised persons actually breaking the security system of the tax office and entering the SuperMatch system. I think it is appalling that people can access and breach the security systems of the ATO in this area. Name-based data matching by the ATO was identified as very costly and inefficient when compared to TFN matching, a finding which further confirms the need to adopt Labor policy on the compulsory provision of TFN numbers to ensure that we maximise the number of Australians who are reunited with their superannuation.

Question agreed to.

BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT REGULATIONS 2005

Motion for Disallowance

Senator SIEWERT (Western Australia) (5.02 pm)—I move:

That the Building and Construction Industry Improvement Regulations 2005, as contained in Select Legislative Instrument 2005 No. 204 and made under the Building and Construction Industry Improvement Act 2005, be disallowed.

I am moving this motion of disallowance to stop bad regulations implementing bad laws. I do so reluctantly, as I consider a disallowance a blunt instrument and an act of last resort. But I feel it is urgent and essential that I do so in response to recent events in my home state of Western Australia. I am doing so because I have been confronted by chilling news of how the Building Industry Taskforce and then the Australian Building and Construction Commission, the ABCC, have been implementing these regulations since the chamber passed the Building and Construction Industry Improvement Act, the BCII Act.

It is not a pretty story and it is not the kind of tale you expect to hear emerging within Australia. When this legislation passed through this chamber just a couple of months ago I spoke against its passing into law and I raised my concerns that these laws would remove the basic civil and democratic rights of workers and their right to silence. I raised my concern that the ABCC was being given what were essentially coercive powers. It gives me absolutely no pleasure to say, ‘I told you so.’

I have been hearing some very scary stories of workers’ families being intimidated by burly inspectors who appear to have waited until a worker has set off to work to serve his wife or partner with a notice, putting out in a heavy-handed manner that they are liable to a large fine or a jail term if they do not fully cooperate. I have heard stories of apprentices, and migrant workers for whom English is a second language, being picked on, intimidated and tricked into answering questions without being informed of their legal rights. I have heard about workers being invited to have an informal conversation by an ABCC inspector only to learn that the discussion has been recorded without their knowledge or consent. I have heard stories about workers being separated from their counsel in ABCC hearings, being seated between two large inspectors and being badgered into answering questions. I have heard stories about workers being denied the right to particulars that detail the matter under investigation and of counsel being manhandled by ABCC in-
spectors. What I have heard are reports about a hearing process that amounts for all intents and purposes to being a star chamber in which the deputy commissioner sits beneath a Commonwealth coat of arms and acts in an imperious manner, claiming the regulations give him the right to determine who can or cannot represent a worker and how they fulfill their moral, ethical and legal obligations.

One of the worrying things about the Building and Construction Industry Improvement Act and its regulations is the manner in which it has been made retrospective. This means that ordinary Australian workers now facing this star chamber have no right to silence. They face the threat of six months jail and are being pursued and threatened with prosecution for taking part in, or possibly knowing of, actions that were not illegal at the time they purportedly occurred. Let me run that by you again. There is no right of silence, limited access to bona fide legal representation and the threat of six months jail for being involved in, or possibly having knowledge of, industrial actions that were not illegal at the time they are said to have occurred. These workers are being denied the basic democratic rights to procedural fairness and natural justice that all of us take for granted. These workers, who have not been charged with anything and may only be suspected of knowing about an offence committed by someone else, are being treated with fewer rights than someone who has committed a very serious criminal offence.

The ABCC has wasted no time in moving to make use of the BCII Act and its sweeping inquisitorial powers. With the ink on the legislation barely dry, we are aware of a number of examples of building workers in WA being targeted. From these incidents a clear picture of the bread-and-butter tactics being used by the ABCC inspectors has emerged, tactics that I believe are deliberately designed to intimidate, bully and spread fear among ordinary workers. How do I know this? Suffice to say that I have been contacted by a number of very distressed WA constituents, building and construction workers who have been subjected to the bully-boy tactics of the ABCC. I cannot share with you the details of these matters—I do not know them. Each of these workers has been threatened with criminal prosecution if they reveal any of the questions asked, answers given or agreements made during their inquisition to anybody other than a legal practitioner, if they were lucky enough to be able to afford one.

I cannot characterise these practitioners as true legal representatives, because their ability to act as counsel for their clients has been obstructed by the deputy commissioner who presided over their hearings like an imperial magistrate. I am unwilling to identify the individuals due to the legitimate fears that that would invite intimidation and vindictive retribution of them and their families. But, as best as I can determine, there is no prohibition of describing the processes and procedures to which the ABCC targets are subject, and it is high time that this chamber took responsibility for the consequences of this undemocratic legislation.

Before receiving a formal notice to appear, it seems that most witnesses are approached using a variety of unethical tactics, including friendly ‘can you tell me off the record’ phone calls or letters of invitation to come in and have an informal chat. Others receive phone calls that they clearly perceive as threatening, or letters that outline in great detail the penalties they could be subject to under the act but do not touch on their corresponding rights to refuse, to have legal counsel present or to seek written particulars. These informal approaches are then followed up by a couple of burly inspectors turning up to the family home, when the workers are not
present, to formally serve notice on their families. In at least a couple of instances it has seemed apparent that they have waited until after the worker has left for work to serve the notice in a manner clearly designed to intimidate the family.

The ABCC inspectors do not seem to be interested in serving the notice to the worker on the job, despite this being a more forthright, convenient and appropriate course of action. In one case the inspectors turned up and tried to serve a notice on a nine-year-old child, who apparently outsmarted them by refusing to open the door. There is a serious question as to whether service of a summons on a person’s family constitutes valid service. In most criminal jurisdictions a witness summons needs to be served personally and cannot be served on family, friends or the like. Where there are quite serious penalties for failing to attend, you would think that the notice should be served personally.

As I said, at least eight workers to our knowledge have been served notice to appear before the ABCC in Perth. They are ordinary building and construction workers who coincidentally appear to belong to the building and construction union, but none of them are union officials, delegates, stewards or union organisers of any kind. From what I have been told, the notices to appear are consistent in their lack of detail or particulars relating to the matter under investigation. The workers are given 14 days to appear but are given no information to allow them to prepare for the inquisition. The notices apparently state a time and date when an alleged breach occurred and then the rest of the notice outlines the consequences if the worker fails to appear and answer questions. These workers have to approach the inquisition blind.

Imagine the state of mind of an ordinary working Australian as they approach their interview. They are not accused of committing an industrial crime but they are threatened with jail if they fail to appear or answer questions and they are offered immunity from prosecution if they testify to participating in a retrospectively illegal action. But the prelude is nothing compared to the actual interrogation. It is by no means an informal interview to answer questions. It is a full-blown formal hearing, held in an adversarial courtroom like setting in which the normal rules of fair play and jurisprudence are suspended.

Nigel Hadgkiss, former head of the Building Industry Taskforce, former NCA liaison to the Cole royal commission and now Deputy Commissioner of the ABCC, presides over the hearing like a magistrate. But, unlike a magistrate, Mr Hadgkiss appears only to be bound by the procedures that he and the ABCC choose to follow. Mr Hadgkiss, who I understand is not a legal practitioner, appears to have the unfettered right to use the only procedures that he knows: procedures used by the National Crime Authority and previously reserved for investigations into the mob and organised crime. He is not bound by democratic procedures set forth in the law and regulations by parliament. He is not subject to parliamentary or independent oversight to ensure that the principles of our democratic institutions are upheld. He is only accountable to his boss, the Minister for Employment and Workplace Relations, who has created these laws, and reserves for himself the right to oversee them, and happens to have been the former head of the WA Building Industry Taskforce under Richard Court and Graham Kierath.

Building workers called before Mr Hadgkiss have been forced to sit between the big and burly ex-policemen ABCC inspectors who work for Mr Hadgkiss, while the legal practitioners they engaged to support them during the hearing are forced to sit on the opposite side of the room. The preliminary
monologues by Mr Hadgkiss and his counsel assisting prior to questioning do not inform the worker of his rights, few that they are. They reiterate the notice and recite the consequences for workers who are not obedient or do not comply. This process is clearly designed to intimidate the worker rather than encourage cooperation and willing participation.

When a solicitor appeared in order to represent a client, having already appeared before the ABCC with another client, that solicitor was denied by Mr Hadgkiss the right to represent their client on the grounds that they might have a potential conflict of interest if the ABCC decided to pursue a prosecution. He proceeded to interrogate the solicitor, asking the solicitor to divulge privileged information about their relationship with their client, before they were manhandled out of the hearing room.

Under criminal law it is permissible and perfectly normal for one lawyer to represent different clients facing the same set of allegations. However, not only is Deputy Commissioner Hadgkiss using tactics more appropriate to the National Crime Authority, but he is claiming that the dated NCA court decisions in relation to conspiracy give him the right to dismiss counsel who has already appeared for a different worker on the grounds of a possible hypothetical future conflict of interest. I am assured that these NCA court decisions are peculiar to the National Crime Authority Act and were designed specifically to deal with organised crime and mob activities. They are not appropriate to an ABCC hearing whose only purpose is to gather information. These are not people who have been charged or are even necessarily likely to be charged with a criminal offence, and yet they are denied basic legal rights. Section 52(3) of the Building and Construction Industry Improvement Act 2005 quite specifically states:

A person attending before the ABC Commissioner, or before an assistant ... may, if the person so chooses, be represented by a person who, under the Judiciary Act 1903, is entitled to practise as a barrister or solicitor, or both, in a federal court.

Further, when the deputy commissioner grants a legal representative leave to be present, he is seeking to impose restrictions on the role that the legal representative can take during the hearing so that all they can do is: object to questions asked if they are unfair, unclear or irrelevant to the subject matter of the examination; re-examine the witness to clarify their response to an earlier question which requires clarification; or make submissions at the completion of the examination as to any relevant matter. This seems to preclude legal practitioners from being able to advise their client in relation to questions they are being asked. There is nothing in the act to say that this is permissible, that the legal representative must be granted leave or that such leave could be withheld.

The point of concern with the manner in which Mr Hadgkiss presides over the examination is that he is both the examiner and the presiding commissioner. So, in essence, he determines the validity of any objections to his own questions—which is arguably an extraordinary conflict of interest. Furthermore, in most court jurisdictions, if you summon a witness you are responsible for their costs of attending. In the local court, you need to provide them with conduct money, that is, bus fare, if you summon them to attend. In the ABCC, the witness, who may have done absolutely nothing wrong, is responsible for their own lost wages, conduct money and legal expenses regardless of the circumstances. And if the Work Choice legislation passes through this chamber into law there will be nothing to stop workers being unfairly dismissed because they have been
compelled to respond to an ABCC summons and were absent from the workplace.

Why am I moving to disallow these regulations? I am sure some of my colleagues will be quick to point out that there is nothing in the regulations about the ABCC running a star chamber. There is nothing in the regulations about intimidating workers or workers’ families, limiting access to legal representation or excluding them on the basis of conflict of interest. That is precisely my point. The BCII Act gives the ABCC sweeping coercive powers to compel witnesses without any checks and balances. It seems to give Deputy Commissioner Hadgkiss the latitude to exercise self-defined, wide powers of interpretation of the regulations and carte blanche to implement the act in a heavy-handed, unregulated fashion.

This is my question to the chamber: is this the way we want the commission to run? Do we believe that this is how justice should operate in this day and age? Let me remind you that an ABCC interview is meant to be an information-gathering exercise to pull together information that may have some value in a hypothetical future prosecution, and that the people caught up in this net may not even be suspected of any criminal behaviour or intent. I am suggesting that there is insufficient regulation of the activities of the ABCC, and that these regulations before us do not provide sufficient guidance, place clear obligations on the conduct of the ABCC or contain sufficient checks and balances to stop the investigators of the ABCC and its inspectors from crossing the line and infringing on the legal, industrial and democratic rights of ordinary working people.

Senator MARSHALL (Victoria) (5.18 pm)—Labor supports the disallowance motion moved by Senator Siewert because these regulations support evil and pernicious legislation. I am very concerned about what Senator Siewert has put on the table regarding the conduct of the Building Industry Taskforce. It is something that has been debated a number of times in this chamber. I know that you, Acting Deputy President Murray, at the time argued that you believed the task force would not abuse some of the powers it has been granted by this parliament. I think that the jury, while not having made a final decision, is certainly getting to learn that the Building Industry Taskforce is not a body that should be provided with these sorts of coercive powers and the regulations supporting those coercive powers.

These coercive powers allow coercive investigation and treat 740,000 workers in the building and construction industry worse than suspected terrorists. We said that at the time and we continue to stand by that accusation. The rights afforded under the legislation and the guidelines and supported by these regulations will regulate these powers. There are fewer protections than are afforded suspected terrorists in this country when they are interrogated by ASIO. These government sponsored interrogation sessions are to be conducted in secret, and under the guidelines interrogators can direct interviewees not to disclose to anyone other than their lawyer—not to family, not to friends—what has happened during the interview, and questions asked must be answered even when that answer may incriminate the interviewee giving the answer.

As the information from Western Australia unfolds it appears that there are now restrictions being placed on people’s rights to choose a lawyer. I think it is clearly inappropriate, given what I have heard today, that the task force seems to have the ability to deny people the legal representation of their choice simply because the same lawyer may be representing someone else who is being questioned or who has been questioned un-
der the powers that the parliament has provided to the Building Industry Taskforce.

The protection against self-incrimination is an important legal and civil right. It is well entrenched as part of the process of criminal law. The High Court has described it as a human right which protects personal freedom, privacy and dignity from the power of the state. However, in this case any residual right to refuse to answer questions during investigations on the basis of the protection against self-incrimination has been removed by this government. This is an outrageous element of the regime, given the importance of that civil right and the serious consequences attached to the potential penalties involved.

What makes it worse is the government’s track record of partisanship in industrial relations disputes and the fact that trade union activity often has a political as well as an industrial element to it. These kinds of measures will be used, and are being used, as a tool of political repression, especially when, as is already the case, that form of political expression will become unlawful under this government. This whole proposal is totally unacceptable to me and to the Labor Party. Again we say that nowhere else in the world do such powers exist. My question again to the Senate is: why should they exist here in Australia? It is absolutely beyond me, and they certainly should not.

Regulation making goes on all the time. Even as I speak, there are people hard at work in the legislation branch of the Department of Employment and Workplace Relations dreaming up regulations, and many of these we will be able to debate because they are disallowable instruments. But, as we see with the Work Choices bill, an entirely different category of continuing regulations will be those which result from ministerial discretion. Those are a matter of serious concern. The provision of ministerial discretion is the most authoritarian legislative provision in the democratic world. Ministerial discretion has been commented about in the press as the Henry VIII clause, by which is meant that the minister, a reincarnation of Henry VIII, can block the application of the law in particular circumstances. He constitutes his own high court for this purpose. The minister is most likely to act in circumstances where employers and employees cut a deal which he personally disapproves of.

Another area of ministerial discretion is the minister’s right to decide what an essential service is. There will be many unintended consequences attended on this power and it is dangerous to take such decisions out of the hands of the courts. This is the kind of legislative stunt we associate with Eastern European states before the collapse of the communist regimes there. My view overall about regulation of this magnitude is that it will not be long before it gets the backs of businesses up as well as of unions and employees. There will be considerable litigation in the process at any one time and most likely a more anxious and suspicious climate of industrial relations generally than we have seen for decades.

The government has seen regulation as a restriction on the power of employers to order employment arrangements in ways which suit their interests. While regulation has not been reduced in toto under Work Choices, it has been skewed in the direction of tipping the scales fully against employees. Employers in the small and medium businesses sector will have their position bolstered by the changes to unfair dismissal and will be able to claim almost anything as an operational reason to dismiss employees, and unions have been threatened with massive fines should they organise action to defend the rights of members. But will this fortress strategy work if a showdown does come?
Will industrial unrest, now at a historically low level, actually increase as a result of the very laws which now repress it?

As I said, the regulations that we are today seeking to disallow support poor legislation and legislation which we on this side of the chamber absolutely oppose. The Building Industry Taskforce is the main beneficiary of these regulations and the supporting legislation. It is an organisation which I would not support giving any powers to. I do not think it has an appropriate track record. Let us look for a just moment at its record. Since 2002 the Building Industry Taskforce has been involved in 20 completed court actions: 15 successful and five unsuccessful. It is currently engaged in a further eight court actions. In its 15 successful court actions, the Building Industry Taskforce has managed to bring about fines in only 12 of the cases, totalling $51,850 in penalties. For the 20 completed court actions, an average of the fines imposed is $2,592.50. All the fines imposed have been between $200 and $7,500. These are, in the scale of fines, for trivial matters. Only five of the fines imposed were more than $2,000.

The task force has undertaken 2,914 site visits between 1 October 2002 and 30 September 2005. The task force has delivered 704 notices to produce between 1 October 2002 and 30 December 2005, and their 1800 hotline number has received 3,523 matters between 1 October 2002 and 30 December 2005. Just look at the costs that were put in for that. This is an enormously resourced organisation. The resourcing for the task force between 2002 and the 2005-06 financial year totals $45.96 million, each successful court action, which is 15, has cost the task force over $3 million. Each finalised court action, which is a total of 20, has cost the task force $2.3 million. For every dollar in fines imposed, $51,850 has been spent. Each completed investigation, of which there were 540, has cost the task force $85,111. All investigations, complete and current, of which there are 579, have cost the task force $79,378. Each site visit, of which there have been 2,914, has cost the task force $15,772. Each notice to produce, of which there have been 704, has cost the task force $65,286. Each 1800 hotline matter, of which there have been 3,523, has cost the task force $13,046 to address.

It must be kept in mind that this is not an organisation that investigates criminal activity. That is a matter for the state jurisdictions and the state police in each of the states. The task force investigates technical breaches of the Workplace Relations Act. Here we have a government that is pouring bucketloads of money into an organisation and giving it powers of a coercive nature unseen anywhere in the world for these sorts of activities. It is something that the Labor Party and the Greens find absolutely abhorrent. The regulations that we seek to disallow today support, as I said earlier, this evil and pernicious legislation. The Labor Party joins with the Australian Greens in seeking to disallow these regulations.

Senator ABETZ (Tasmania—Special Minister of State) (5.30 pm)—What we see here again today is the Greens-Labor accord working hard to try to defeat that which is required for the building and construction industry. I was somewhat bemused that the Greens should have jumped the gun on this and moved the motion to disallow the Building and Construction Industry Improvement Regulations 2005, instead of the Australian Building and Construction Commission.
Labor Party moving it. In my home state of Tasmania, whenever you talk about building, development and construction the Greens reflexively react by opposing any development proposal and, as a result, the possibility of any jobs being created through the construction industry. So it is somewhat bemusing to me and to the government that the Greens would seek to involve themselves in this debate on the side of the construction unions.

It is noteworthy that the CFMEU, or the construction division of the CFMEU, have been donors to the Australian Greens in the past. It is interesting to note their response when asked about those donations. In her web diary on 20 January 2005, a journalist who it would be fair to say is not a friend of this government, one Margo Kingston, said:

When conducting research regarding the somewhat perplexing donation to the Greens from the Construction, Forestry, Mining and (CFMEU), the initial reaction from the party was a defensive block, followed, some days later, by a phone call ... to explain that the donation was from the construction branch of the union, pointing out the long history between the green movement and the construction industry ...

I would have thought it was a relationship not with the construction industry but with elements of the union. It is somewhat bizarre to have the Greens so heavily involved in this, but I think we can now understand why.

The motion before the Senate today represents nothing more than a final attempt to delay reform of the building and construction industry. The Building and Construction Industry Improvement Act 2005, or the BCII Act, was passed after significant scrutiny by both houses of parliament and was given royal assent on 12 September this year. This motion achieves nothing other than taking up the precious time of the Senate. Disallowing these regulations would reduce the level of detail available to building industry participants regarding the operation of the BCII Act.

The act provides an improved workplace relations framework for building work to ensure that it is carried out fairly, efficiently and productively for the benefit of all building industry participants and for the benefit of the Australian economy as a whole. The purpose of the regulations is to give effect to the act by prescribing certain matters necessary to assist both the ABC Commissioner and the Federal Safety Commissioner, as well as ABC inspectors and federal safety officers, to carry out their statutory functions and duties. For example, the regulations prescribe the form of identification for the ABC Commissioner, ABC inspectors, the Federal Safety Commissioner and federal safety officers and the form of notice to be given where an ABC inspector or a federal safety officer takes a sample of any goods or substances or requires production of a document.

Key functions of the ABC Commissioner are to promote compliance with the BCII Act and the Workplace Relations Act, provide assistance to building industry participants, investigate potential contraventions and, where necessary, institute enforcement proceedings. Importantly, the regulations require industry participants to provide the ABC Commissioner with information about proceedings before court, under the BCII Act or the Workplace Relations Act. If the regulations are disallowed, this will only hinder the ability of the ABC Commissioner to fulfil his statutory duties.

This motion should not be used as an attempt to reopen debate on the BCII Act or the need for reform in the building and construction industry. The act is the government’s legislative response to the Royal Commission into the Building and Construction Industry and provides a comprehensive
workplace relations reform package for the construction industry.

To assist those opposite and the nay sayers and those who continue to live in denial about the state of the construction industry, I remind the Senate that in 2001 the Cole royal commission found that in the building and construction industry there is an entrenched culture of lawlessness. Any responsible government is required to deal with such an entrenched culture of lawlessness. Those opposite, the Greens-Labor accord, would insist that we do nothing about it. The Cole royal commission went further with its findings on the industry. It said it was characterised by illegal and improper payments, chronic failure to honour legally binding agreements, contempt for commission orders and court rulings, as well as poor occupational health and safety records. The final report of the commission provided compelling evidence for the need for reform in this industry, cataloguing as it did over 100 instances of unlawful and inappropriate conduct. Yet we have the Greens and the Labor Party in this place asserting that we do not have to do anything about such an outrageous legacy that impacts on every single Australian. There should be no section of industry that is above the law. The building industry and those who operate in it, be they employer or employee, should not be allowed to live in this culture of lawlessness.

The royal commission recommended industry-specific legislation to address the issues, and that is exactly what we have done, and we have introduced the legislation. Extensive consultation took place, and the parliament has now seen fit to pass the legislation. Of course, to make the legislation operative, you need certain regulations, which are disallowable instruments. The Greens-Labor accord in this place is seeking to use the disallowance mechanism to gut the legislation and to gut the findings of the royal commission. We accepted the findings of the royal commission. We acted on the findings of the royal commission. For those opposite to continue to live in denial as to what the royal commission found unfortunately reflects to whom they are beholden—namely, the extreme elements of the construction union—as opposed to the vast majority of the Australian people who are being held to ransom by the activities that have been so well catalogued by the Cole royal commission. Without delaying the Senate any further, I urge all senators to reject the disallowance motion.

Senator BARTLETT (Queensland) (5.38 pm)—I would like to make a few brief comments on behalf of the Democrats, given that our regular spokesperson on this issue is otherwise detained at the moment, presiding over the Senate. The issues here, as you would well know, Mr Acting Deputy President Murray, are both as narrow as what on the face of it are fairly innocuous regulations in lots of respects that simply give effect to legislation that was passed by the Senate and as wide as the whole political history of the government’s fairly flagrant misuse of taxpayers’ money, calling a politicised royal commission that, quite frankly, did not produce value for money.

Nonetheless, the royal commission did produce information that the Democrats tried to get maximum value out of. We participated comprehensively in follow-up Senate committee inquiries to try to filter out some of the extreme ideologically driven rhetoric and half-facts that the government was putting forward and to try to get to the actual facts and the truth. In that context, you also have to filter out the understandable self-interest of the building industry unions. It is completely understandable because they are looking after their interests from their position. The Democrats’ position on industrial relations, from our inception and particularly
in the last decade or so, has been to try to find the middle path between the union focus and the industry focus, to try to filter out the self-interest and to look at the facts to see what is actually happening on the ground and what sorts of changes in law might benefit the situation.

In one sense this is another manifestation of that very partisan and politicised debate that goes back quite a long period of time. Our comments are on the record in a number of places and on a number of occasions, including a range of Senate committee reports and a range of debates in this chamber and outside it. I do not want to revisit all those in detail today, beyond saying again that we thought that the royal commission was much more partisan than it needed to be. I certainly think that, if we are going to spend tens of millions of dollars on a royal commission, it would have been a much greater indication of the government’s seriousness if they had undertaken a royal commission into the grotesque and widespread problem of child sexual assault. The Senate repeatedly passed resolutions calling for a royal commission into that area, and the Prime Minister said, ‘We’re better off putting the money straight into child protection.’ Of course, the federal government did not put any extra money into child protection, but they did manage to find tens of millions of dollars to have a politically motivated royal commission into the building industry instead. I think that was very much to their discredit.

The fact that the royal commission was politically motivated on the part of the government and was not the best use of public funds should not, nonetheless, suggest that there were not issues in the building industry that needed attention. The government is focused on the issues from the point of view that all the problems are with the unions. There are certainly some isolated and individual problems with some union officials, and I think there is certainly sufficient evidence to demonstrate that, but there are also problems with others in other parts of industry. The inappropriate behaviour of others on the business side of things in some respects generated a vicious cycle of almost making it inevitable that you would get counteractions and reactions on the part of others in the work force.

The Democrats’ view, after looking at this matter in a lot of detail, was that there was a case for some action but not the sort of extreme and draconian action that the government proposed at the time. I can well recall the amount of time that the Democrats put in—and, indeed, the time was put in by not just our spokesperson Senator Murray but me as the party leader at the time—in trying to negotiate a balanced position between the government, the minister and the then shadow minister, Dr Emerson. I am fairly sure that it was on the very final sitting day at the end of June 2004, in a quite late night sitting, that we tried to negotiate a balanced position that would provide some extra powers and some scope for action to try to break through and address some of the real problems that existed, without providing the sort of draconian and extreme powers that were not only unnecessary but also likely to be misused and, as often happens in those circumstances, likely to be counterproductive as well. The decision the Democrats took at that time, which was a difficult but, I believe, balanced one, was a perfect example of the responsible use of the balance of power that we were able to exercise at that time and on a range of other occasions in the industrial relations arena.

I addressed that history a little in my comments on the misnamed Work Choices bill when I spoke on that last night, so I will not revisit all that. But it is important to give that history, because that legislation was negotiated and passed after a lot of work look-
ing at the evidence through comprehensive Senate committee inquiries trying to cut through all the political rhetoric and self-interest to look at the public interest. Following from that, a set of regulations was put forward which, again, we put a lot of work into negotiating, not just with the government and the industry but also with the relevant unions. Despite not supporting it, the unions recognised what our position was. They still contributed and participated in trying to make those regulations as effective as possible as well as focused on the problem they were trying to address rather than just giving a blank cheque. So we put that effort in with those regulations and with the guidelines about how those powers would be used.

There was a disallowance motion moved to those regulations as well by Senator Marshall and, I think, Senator Nettle combining together and showing their shared ideological focus in that particular area. The Democrats’ view was the same: whilst there were difficult issues and valid arguments, on balance, we believed they were appropriate. There was strong criticism. I particularly remember the very strong criticism of former Senator Peter Cook when the legislation was being debated quite strongly in this chamber. And when he was speaking to me personally outside the chamber the criticism was even stronger. But the fact is that, whilst there are some significant powers that are given in this area, they do match in quite a parallel sense powers that other government agencies have, such as ASIC and others, when they are conducting investigations. They have quite strong powers. The requirements on people who are being asked to provide information are often much more extreme than we would normally expect in due processes. These are not issues one approaches lightly. That should always be done with caution and proper controls, and that is what we sought to do.

The problem is that, since the election, with the government getting a very narrow majority, but a majority nonetheless, in the Senate, they have not just put aside but basically blown out of the water all of those balanced outcomes that were agreed by the Senate. They have simply come back with their own ideologically extreme full-blown measures. That is what we saw with the dubiously named Building and Construction Industry Improvement Bill 2005 that was passed by this chamber not too long ago. I should emphasise that the Democrats opposed that legislation because it was extreme. It went further than was necessary and did not provide adequate protections.

The regulations that we are debating today, to get back to the specifics of the matter before us, endeavour to put in place some of the administrative framework surrounding the legislation that was passed. Because we did not support the legislation it is reasonable enough in one sense to say that we do not support the regulations. On the other hand, you could take a view that the regulations are not overly draconian beyond what is already there in the law that has been passed. The regulations are in many respects fairly benign; it is the law that they are attached to that is not so benign. Unfortunately, we have already lost that debate.

I should also emphasise the fairly significant amount of work the Democrats did in regard to the guidelines on how all those powers would be implemented. We got written guarantees and letters and all those sorts of things—they have also been superseded. That is very unfortunate and that, to some extent, goes to the concerns that have been raised in this debate. It is an important issue to emphasise, certainly for those of us that actively try to engage with the detail of legislation as opposed to just the political rhetoric. You can put as much effort and as many hours of work as you like into trying to get
legislation and the regulations as precise and perfect as possible. It is appropriate to do that. But at the end of it all, it is still the government of the day that administer the law and regulations and oversee how those powers are used or, indeed, misused. It is much more difficult for the parliament, the Senate or indeed anybody else to have direct control over that. Once the powers are there, there is certainly always going to be a wide degree of flexibility or scope within the legislative framework for the government to allow the laws to be administered in particular ways. The lack of good faith that the government have shown in this area, as in many others, is a big part of why so many people do not have a lot of trust in this government and their willingness to stick to their word. It is not only a matter of how they allow powers to be implemented and overseen but also a matter of being given powers and then not bothering to use them for public good. So it does cut both ways.

That is really the problem about which very valid concerns have been expressed—that the powers are there and are being, in some instances, used in a way that is inappropriate and, I would suggest, counterproductive. If you are genuinely interested in addressing the problems in the industry and in trying to get meaningful and sustainable improvements, going around acting like cowboys is not going to do it. All you do is continue to maintain the cycle of antagonism that has been a cause of a lot of the problems that the Democrats have quite willingly and openly acknowledged do exist to some extent.

So that is, I guess, a history of the issue that the Senate is debating today. The issue is much wider than the regulation before us because it has that history. That history, unfortunately, has come to an end point. Because the government now have control of the Senate they have basically taken the opportunity to undo a lot of the work that was done by the Senate over previous years to get a balanced and constructive outcome. Instead, they have implemented their own ideological agenda. That ideological agenda had its starting point, as Senator Abetz clearly demonstrated through his contribution, in that very partisan and politically driven royal commission. It was so politically driven that at the time even Alan Jones was critical of its unnecessary nature.

This is the unfortunate situation we are now in. The government is now in a position, because of its narrow control of the Senate, to implement its ideological agendas and that ideology can overcome and subsume the broader public good and the necessity for balanced and constructive legislative and policy outcomes. In that circumstance, perhaps it is not surprising that the powers the government has are in some cases being used and implemented in a less than constructive, desirable and appropriate way. To summarise, the act is on the record. The Democrats opposed it. The regulations in themselves are not overly significant beyond the fact that they attach to an act that is extreme and goes beyond what was necessary. It was an act that the Democrats opposed at the time.

Senator SIEWERT (Western Australia) (5.53 pm)—To round out this discussion there are a few items that I did not address earlier that I would quickly like to address now. I would like to make a point about the ILO and talk a bit about safety. The International Labour Organisation handed down its findings on the Building and Construction Industry Improvement Act earlier this month. It found that the act directly contravenes international obligations under conventions that Australia has ratified—the Freedom of Association and Protection of the Right to Organize Convention No. 87, and the Right to Organize and Collective Bargaining Convention No. 98. It requested that this gov-
ernment take the necessary steps to amend this legislation to ensure that references to unlawful industrial action conform to the principle of freedom of association and remove financial penalties and disincentives that contain undue restriction on collective bargaining.

It also requested that the government introduce an ability for workers to lodge an appeal before the courts against an ABCC notice prior to handing over documents and introduce safeguards into the act to ensure that the functioning of the ABC Commissioner and inspectors does not lead to interference in the internal affairs of trade unions. The ILO did not look favourably on the provision of a penalty of six months imprisonment and strongly suggested that penalties should be proportional to the gravity of the offence. It suggested that the government needed to enter into full and frank consultations with all the stakeholders involved—with representatives of employers and workers organisations—to develop amendments to the legislation to bring it into line with Australia’s international obligations. Quite frankly, I believe this legislation is embarrassing to us internationally. It is taking a very retrograde step at a time when we should be looking at creative ways we can cooperate to develop collective bargaining agreements that boost productivity, help us balance work and family and address our looming skills shortage through lifelong workplace learning.

I am also very concerned about the impacts of the act, the lack of regulation surrounding the activities of the ABCC and the effect it is having on safety on our construction sites. We heard reports recently about some union occupational health and safety reps responsible to the OH&S legislation in their states as well as to their employers being stood down for objecting to unsafe work practices. The impact this is likely to have on the health and safety of building and construction workers is a major concern. Already safety officers are pulling their heads in and deciding to protect their jobs so they can feed their families rather than stand up to bosses who are demanding 60 to 80 hours of work a week and that workers work two weeks in a row with no day off.

There are four reps that we know of in the weeks since this legislation was passed who have been stood down. Others have been transferred to different tasks or different sites, which effectively stops them performing their safety role. Union safety officials have shown that this has corresponded with a serious drop in workplace standards and compliance. We know of at least one CEO who, to his credit, has taken on these union safety reports and claimed that he will work with the union to take the necessary steps to fix things. While this problem is something that we have seen on a small scale in the past in some areas with low levels of union health and safety participation, we are very worried that we may see it on a larger scale into the future.

The BCII Act has limited the participation of building and construction industry workers in pursuit of their own health and safety and has created a situation in which the onus is on the workers to prove a direct and imminent threat to their health and safety before they can stop work to prevent unsafe practices. So we have another fatal flaw in this act and its regulations. The government justified this legislation on the basis that too many days were lost in the industry to industrial action. It did not investigate the reasons why action was taken, whether this action was legitimate under the law and the extent to which safety issues in a dangerous industry played a role in the industrial action taken. The government did not undertake research to determine the reason why far more days of work are lost—an estimate is
by a factor of four—in the building and construction industry to injury.

It may seem that this may only be affecting a few building workers. Of course, this is also about the impact of these activities on their families and their sense of security and wellbeing. However, I believe there is much more at stake here. If we, through our actions or failure to act, are sending the signal that we think this sort of behaviour in the ABCC is acceptable and we specifically move legislation to deal with this group of workers, how long into the future will it be before we see similar sorts of action taken with other industries having problems—for example, against nurses, teachers or bus drivers? I for one am shocked by the types of activities that I have outlined tonight. I do not think they are acceptable in Australian society and I believe most Australians would not think them acceptable.

I know there is a strong stereotype out there about your typical construction worker. The stereotype portrays them as being pretty rough around the edges, commanding large salaries and holding the government and big contractors to ransom, leading to time line and budget blow-outs on major industry projects. I would like to have a quick go at debunking some of these myths so that we can put into context the kernel of truth that they contain.

Much has been made in parliament and the press about the salaries, for example, received by construction workers taking advantage of the Howard government’s skills shortage. In the West Australian during the week we read that they are commanding salaries of $90,000 to $100,000 a year. What we do not hear is that this is projected salaries on the basis that workers work every hour of overtime and throughout the calendar year. Of course, few do. Most construction workers are casual and itinerant and most only work on a specific stage of even the largest and longest projects. Even during boom times, when their small part of the project finishes they need to live off their savings while they search for the next job.

You do not hear about the profits that are made out of this by the building contractors or the building industry. Last year, for instance, Leighton Holdings was only able to hold on to one-quarter of a billion dollars of the profit that they made from revenues approaching $7 billion. According to the Australian on 14 November, poor Leighton CEO Wal King is due to pocket a $23 million bonus after taking home $36 million last year.

We keep hearing that the building industry is rife with corrupt and criminal activity, and the coalition has articulated at length in this chamber about that and about the allegations made by the Cole royal commission—a $60 million exercise to vilify by implication or association every building and construction worker in Australia. Their children were taunted at school and, during the rare chances that a building worker these days gets to be a parent on the weekend, they were shunned when they took their kids to Sunday footy. Yet, despite the wide-ranging criminal justice powers available to the AFP and NCA, the commission only resulted in one prosecution—and that was of an employer.

Why were building and construction workers or their union not prosecuted? Because, at the time, the universal principle that workers own their own labour and consequently control the choice to withdraw their labour as a last resort was not a criminal activity. The Howard government swept away that universal right with the passage of the BCII Act and can now proudly claim responsibility for regressive laws that target a distinct group of workers—laws that do not
exist in other democratic countries in the world.

The new laws now impose criminal penalties if workers or their union are found to have failed to follow the disputes procedures in an agreement or contract. Now that the right to take industrial action has effectively been extinguished, what recourse will the average working Australian have if his or her employer fails in their responsibilities? In the construction industry at the moment a lot of employees are working virtually around the clock. They are often working for long periods away from home, which means that they do not see their families that often. These employees are increasingly tired and exhausted, dramatically increasing the risk to their health and safety, yet a number of their safety representatives have been dismissed due to the effect of this legislation.

Normal reasonable working hours are defined as 56 hours per week, after which there needs to be genuine consultation with workers and their representatives. A few weeks back, at a major construction site in Perth, employees who had worked 13 long days straight without a break were told that they had no choice but to work the forthcoming weekend as well. When they refused, the company sought orders from the AIRC to compel them and threatened them with the scrutiny of the ABCC and prosecution. On an adjoining construction project, a crane operator was told that he was engaged in illegal industrial action and threatened with the ABCC if he took longer than five minutes each morning to perform his pre-start safety checks before beginning the day’s work.

Is this the kind of action we want to demonise? Are these the sorts of people we want to treat as criminals—those who are taking action to protect their safety and the safety of other workers and are merely trying to get a fair day’s pay for a fair day’s work? We need a fair and just industrial relations system in this country—one that balances the needs of productivity and the economy with the health and safety of workers, provides the right to a decent wage and a reasonable family life, encourages collaboration between all parties concerned, delivers justice to those who are mistreated or wronged and ensures any penalties are in proportion to the offence committed. We do not need a star chamber or an inquisition. The activities of the ABCC need to be properly regulated to make sure this is so.

Question put:
That the amendment (Senator Siewert’s) be agreed to.

The Senate divided. [6.08 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes……….. 32
Noes……….. 36
Majority…… 4

AYES
Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G.
Carr, K.J. Conroy, S.M.
Crossin, P.M. Faulkner, J.P.
Forshaw, M.G. Hogg, J.J.
Hurley, A. Kirk, L.
Ludwig, J.W. Marshall, G.
McEwen, A. McLucas, J.E.
Milne, C. Moore, C.
Murray, A.J.M. Nettle, K.
O’Brien, K.W.K. Polley, H.
Sherry, N.J. Siewert, R.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R.
Wong, P. Wortley, D.

NOES
Abetz, E. Adams, J.
Barnett, G. Boswell, R.L.D.
Brandis, G.H. Calvert, P.H.
Campbell, I.G. Chapman, H.G.P.
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Coonan, H.L.  Eggleston, A.
Ellison, C.M.  Ferguson, A.B.
Fielding, S.  Fierravanti-Wells, C.
Fifield, M.P.  Heffernan, W.
Humphries, G.  Johnston, D.
Joyce, B.  Kemp, C.R.
Lightfoot, P.R.  Macdonald, I.
Macdonald, J.A.L.  Mason, B.J.
McGauran, J.J.J. *  Minchin, N.H.
Nash, F.  Parry, S.
Payne, M.A.
Payne, M.A.
Santoro, S.
Troeth, J.M.
Vanstone, A.E.

* denotes teller

Question negatived.

COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT BILL 2005
COMMONWEALTH RADIOACTIVE WASTE MANAGEMENT (RELATED AMENDMENTS) BILL 2005

Report of Employment, Workplace Relations and Education Legislation Committee

Senator TROETH (Victoria) (6.11 pm)—I present the report of the Employment, Workplace Relations and Education Legislation Committee on the Commonwealth Radioactive Waste Management Bill 2005 and a related bill, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator TROETH—I move:

That the Senate take note of the report.

This inquiry came about after the Commonwealth Radioactive Waste Management Bill 2005 and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005 were referred to the Senate Employment, Workplace Relations and Education Legislation Committee on 9 November. There was a one-day hearing held in Canberra and 232 submissions were received. As chair of the committee I would like to thank those who appeared at the hearing in person, by video conference or by teleconference. I would also like to thank the secretariat who prepared the report under a fairly limited time frame.

Radioactive waste arises from nuclear medicine, silicon doping, bore hole logging, pollution monitoring and quality control processes in industry. Commonwealth radioactive waste is currently stored at about 30 different locations around Australia. The Commonwealth had originally hoped to build a national repository for all radioactive waste in this country. State and territory waste is currently stored at over 100 locations, including hospital basements in major capital cities as well as at universities. This is a suboptimal level of storage.

After a continued lack of cooperation from state and territory governments, and assuming the Commonwealth goes ahead with building this facility, those governments will need to make their own arrangements to dispose of their own waste. The facility to be established under these bills will store or dispose of low- and intermediate-level waste resulting from medical, industrial and research use of radioactive materials by Commonwealth agencies. Australia stores low-level and short-lived intermediate-level waste. There is some long-lived intermediate-level waste, but this country does not have and does not generate any high-level waste.

The amounts stored in Australia are low by international standards. Australia accumulates some 40 cubic metres per annum. Compared with the UK and France, each of which accumulates some 25,000 cubic me-
tres per annum, we are not talking a huge amount. The government has a deadline with reprocessed, spent fuel arriving back on these shores in the year 2011. There is an extensive six-stage regulatory process to get through and six years to do it in. One of those regulatory processes can take up to two years.

I must say that, on the evidence we heard, the attitude of the states up to this point has been disappointing. The process of looking for a site has been going on since 1979. In 1992 primary criteria were established for a suitable site. Eight regions were identified. In 2001 the Commonwealth government announced a site near Woomera in South Australia. That lapsed. In 2003, again, a South Australian site on crown land was announced. That was abandoned because of the attitude of the South Australian government.

On 14 July 2005, the Commonwealth made a decision to examine three sites in the Northern Territory. On the issue of state interests, there are provisions in the bill to override existing and future Northern Territory laws if indeed this goes ahead. This particular provision is necessary because states and territories have made it clear that they will do everything necessary to frustrate the Commonwealth’s intentions. In the national interest, we need to find a suitable site to store Commonwealth radioactive waste. Indeed, the Northern Territory enacted a bill in 2004 with the specific intention of preventing the Commonwealth from establishing that management facility in the Northern Territory. In the evidence we heard, the Northern Land Council interestingly acknowledged that there is a need for the Commonwealth to acquire land for long-term safe and secure waste storage, and they are opposed to the Northern Territory act of 2004 that I mentioned because it prevents traditional owners from developing their country for a waste facility should they wish to. As I said, three sites have been identified in the Northern Territory. All of them are on Department of Defence land and all of them will undergo site investigation. They are: Fisher’s Ridge near Katherine; Hart’s Range, north-east of Alice Springs; and Mount Everard, north-west of Alice Springs. In the bill we considered in this report, there can be nomination of further sites by the Chief Minister or by an Aboriginal land council.

Is it safe to build this facility? The Australian Radiation Protection and Nuclear Safety Agency—ARPANSA—talked about safety for those living in the vicinity of any proposed management facility or along the transport routes. The Chief Executive Officer of ARPANSA, Dr John Loy, said that it is possible to build and engineer a facility to the level of safety required under modern best practice standards. His licensing procedures will be subject to both public comment and international peer review.

Under the level of consultation that was held after the announcement in July, some public forums were held but I must say that, after the announcement, neither the Chief Minister, Ms Clare Martin, nor her government attempted to make contact with the Commonwealth government to acquire further information. So even though they bemoaned the lack of information that, according to them, had been made available, they still did not make any attempt to acquire further information from the Commonwealth government or any of its agencies. On the other hand, the Northern Territory Minerals Council, who also gave evidence to the committee, appeared to be quite well informed, although they would like further information, and the Northern Land Council was also well informed. It is interesting that the Chief Minister, Ms Clare Martin, did acknowledge that we need a radioactive waste repository. In the Hansard, she says:
We—that is, the Northern Territory government—are on the public record as acknowledging the need for safe and secure disposal of residual waste material.

In that case, you would wonder why they do not just cut the politics and agree that we all need to get on with this.

I would say that the committee, to a greater or lesser degree, agreed that more public information is necessary. There is great deal of misconception, if not ignorance, about the proposal, its basis and the future of it. As a majority committee, I would certainly say that a great deal more public information needs to be on the record, but I would hope that, once this bill is passed, that process can begin. It was interesting that the Australian Greens, given their normal predilection for this particular subject, did not make an appearance at the hearing and, I must say, were conspicuous by their absence. The majority committee recommends that these bills be passed.

Senator CROSSIN (Northern Territory) (6.21 pm)—I rise to provide some comments in relation to the report of the Senate Employment and Workplace Relations and Education Legislation Committee on the Commonwealth Radioactive Waste Management Bill 2005—we would like to see the word ‘dump’ in brackets after that—and the Commonwealth Radioactive Waste Management (Related Amendments) Bill 2005. It will come as no surprise that the majority report recommends that these bills be passed, but this whole process has been an absolute sham from the day it was announced by Brendan Nelson on 15 July that the Territory would become the dumping ground for the Commonwealth’s nuclear waste in this country.

Senators may remember the debacle of trying to get a Senate inquiry into these bills.

Then there was the argy-bargy over the date—these bills should have been reported on yesterday, but the government sought a one-day extension despite the fact that they had argued adamantly in this chamber two weeks ago that these bills needed to be reported on yesterday. The matter was so urgent that these bills had to be through by Christmas, yet I notice that they are not even on the Senate’s agenda for the next three days. If they are that urgent, I suppose we will see them some time next week.

A number of incredible inaccuracies have been presented today in the chair’s tabling comments. Let us not forget that the highest level of radioactive waste this country produces will be stored in the Northern Territory in this facility, either in a repository or a store—and at the end of the day, it may well be a store. One of the things that was borne out by the Senate’s inquiry was that there is no deadline. That is an absolute myth. What we have been hearing about April 2006 and the fact that we may run out of medical radiopharmaceuticals if we do not agree to this were uncovered in this inquiry as myths and furphies. There may well be a deadline of 2011 when the reprocessed rods are due to come back from France, but this is only 2005 and there are still many years before this country has to deal with that. There is no urgency for this parliament to deal with this legislation at this point in time.

I do not understand why the Northern Territory has to become a dumping ground for the rest of the country because, as the government seeks to argue, the states have made it clear that they want to frustrate the government in its attempts to find a national nuclear facility. If that is the case, why haven’t we seen leadership from this Prime Minister or from the minister responsible for science in this country? After the process fell off the rails in relation to the Woomera site in South Australia, why didn’t they try to get the
states and territories to sit around the table together and get some agreement about this? If we can get agreement about terrorism legislation in this country, surely with some sort of leadership we ought to be able to solve this problem. The government’s frustration with the states is being used as an excuse to dump this stuff in the Northern Territory, and that is not acceptable.

If that was not bad enough, they sought to try and use the inactivity of the Chief Minister of the Northern Territory. During the inquiry, I found that line of questioning incredible. For some reason, the Chief Minister—who heard about this decision via a press conference and a press release—was supposed to write to the federal minister and say: ‘So you want to use my Territory for a dumping ground for radioactive waste? Tell me all about it, and I will help you educate my constituents about it.’ It is not her problem. This is not her policy decision. This is not the responsibility of the Chief Minister of the Northern Territory. This is the responsibility of the Commonwealth government, who did not even have the courtesy to write to the Chief Minister prior to this announcement being made. She heard about it via the radio and the television and then was expected, according to the government members on this committee, to take some actions to find out more about it. What was she supposed to find out about? If a comprehensive package of information has not been sent to the Northern Territory government about exactly what is involved in this waste dump, why should it be her responsibility or the Northern Territory government’s responsibility to do the work of the federal government?

If there has been one thing that has come out of this report, it has been the comprehensive and massive criticism of the Minister for Education, Science and Training and his department regarding their failure to be more proactive in adequately informing community groups about the proposal. I had the fortunate experience last Thursday of travelling to Katherine and meeting Val and Barry Utley, who are mentioned significantly in this report. Why is that? Because one of the sites, at Fisher’s Ridge in Katherine, borders their property. They heard about it when a friend rang them and asked, ‘Hey, did you hear this morning’s news?’ What an outrageous way to treat people in Katherine and in the Northern Territory. A nicer couple you could not imagine in the agricultural and pastoral industry in the Northern Territory. They heard about this decision via radio, television and newspaper articles. That is a terrible way to treat people when it comes to such a massive decision.

It should come as no surprise that this report massively criticises the Department of Education, Science and Training for not comprehensively involving the community in this decision, for not informing the community about this decision and for not bringing the community on board. If at the end of the day this national dump is going to be imposed anywhere, it should be done under the international guidelines developed by the International Atomic Energy Association. One of the key guidelines that international association sets down is the importance of a transparent and inclusive community consultation process.

This government has failed at the very first step in implementing and abiding by international guidelines on gaining community acceptance for controversial decisions such as the siting of a waste disposal facility. In fact, those guidelines say, ‘Recent experience suggests that broad public acceptance will enhance the likelihood of project approval.’ There is not broad public acceptance of this anywhere in the Northern Territory I have been—not in Darwin, not in Katherine, not in Alice Springs. The minister and his government stand condemned for not having
better consultative mechanisms and for not having a better way for the community to understand exactly what is involved here.

During these hearings, I have been able to elicit from ARPANSA that this stuff could be adequately stored in Sydney Harbour. With some political expediency, ANSTO’s act could be amended and it could be stored at Lucas Heights. Why at the end of the day is it going to be dumped in the Territory? Simply because it can be; simply because we are a territory and this government, for the first time ever in the history of Northern Territory statehood, seek to use their political muscle by overriding Northern Territory law and dumping this rubbish in the Territory on the excuse that states and territories have frustrated their efforts. It is a shame and it is unfortunate that that will be case. The Labor Party’s minority report does not recommend that the bills be passed. We recommend that they be rejected, and we recommend that this government go back to the drawing board, get the states and territories around the table and start this process again. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Sitting suspended from 6.30 pm to 7.30 pm

WORKPLACE RELATIONS AMENDMENT (WORK CHOICES) BILL 2005

Second Reading

Debate resumed.

Senator POLLEY (Tasmania) (7.30 pm)—I reiterate, Australian families will lose 150 years of hard fought for and hard-earned wages and conditions because of one man’s obsessions. Mr Howard’s view of the Australian work force is an offence and smacks of Scrooge. Like Scrooge, employers will be able to have the power to change employees’ work hours without reasonable notice. There are plenty of Australians alive today who remember what their working life was like during the 1960s. They remember, John Howard, what it was like to be called in to work with 30 minutes notice. This government’s attack on living standards and working conditions is an offence to all Australian workers. Whose agenda is this arrogant and extreme government serving when it acts to undermine the foundations of our great society by attacking family life? John Howard has fought to keep wages down since he was elected. These nasty ‘survival of the fittest’ politics have no place in Australian society. Leave them where they belong—in America.

If Prime Minister Howard had his way, workers on the minimum wage would be $50 a week worse off. In four of those nine very long years the Howard government has proposed a minimum wage increase less than its own inflation forecast. Workers will be asked to wait another six months for any increase from Mr Howard’s so-called Fair Pay Commission. Australia’s lowest paid workers will have to wait at least 18 months until they see any increase. How much do these people earn? $484.40 per week. Of course the flow-on to Australia’s pensioners waiting patiently for their indexed increases will not be good news. Some 1.6 million battlers will have to wait at least 18 months for a miserly increase to help make ends meet.

On 21 June we saw 17 leading Australian academics, led by University of Sydney’s Professor Russell Lansbury, release a report card on the government’s proposed changes. That report card concluded that the government’s changes were likely to have no positive impact on economic productivity or jobs growth. We have had the Australian Catholic Commission for Employment Relations, the National Council of Churches, His Eminence Cardinal Pell, Archbishop Aspinall of Brisbane, the new Primate of the Anglican
Church, and Dr Peter Jensen, the Anglican Archbishop of Sydney, all voicing their concern over these changes. Our church leaders know the type of pressure these changes will put on Australian families. Our church leaders know that these changes remove parents from children as families try to juggle weekend shifts with home life. Our church leaders are at the face of Australia’s poverty, its debt traps and its homeless people.

This legislation is a horrifying restructure of Australian society and a disgraceful attack on Australian family life. The fair go will be lost forever. It will be replaced by fair game. Mr Howard and his arrogant government are socially engineering a country of haves and have-nots. No wonder the churches are speaking out. They know they will be left to pick up the pieces.

We know Mr Howard is a master of verbal disguise. Under this legislation Australians will have no guarantee of starting or finishing times. They will have no guarantee of minimum or maximum hours. They will have no certainty of rosters. They will have no entitlement to a stable income week by week, even for permanent full-time employees, and no entitlement to higher rates of pay for overtime or family unfriendly hours. This legislation will make balancing work and family tougher than ever before. Family budgets and family timetables depend on predictable hours of work and predictable take-home pay. Twenty years of workplace reform have given Australian employees confidence in the workplace. After Mr Howard’s mean attack on the Australian family, maintaining home life, arranging child care and scheduling children’s sporting commitments will now become a nightmare.

The Work Choices legislation is designed to allow employers to require workers to work irregular and family unfriendly hours, including early mornings, nights, weekends and public holidays, without adequate compensation. How many child-care centres are open early in the morning, nights, weekends and public holidays? What types of arrangements does this government expect Australian families to make to care for their kids when the bosses expect them to work all hours and at short notice? Trust Mr Howard? Have faith? Thank you, senators, but I would rather put my faith in Father Christmas. Scrooge, Mr Howard, Scrooge!

Senator NETTLE (New South Wales) (7.35 pm)—In these last two weeks of parliament for the year the Howard government is intending to ram through parliament a number of significant pieces of legislation that rip the heart out of the Australian concept of a fair go. There is this bill on industrial relations, the Workplace Relations Amendment (Work Choices) Bill 2005, that will dramatically change workplaces and relationships in workplaces across this country. There are the terror laws that remove our civil liberties and change the way in which the law is enforced to this country. There are welfare to work measures that will force single mothers and people with disabilities onto the dole. There is the plan to dump radioactive waste from around the world in the middle of Australia. And just today we hear that the Prime Minister would also like to silence student voices on university campuses around this country in the next two weeks. All of these laws are designed to reduce rights, reduce equality and abolish the proudest moments of our history as a country and the highlights that many people in our society have worked so hard to achieve over so many years.

For the last 100 years, this country has provided many people with an enviable way and quality of life. These positive features of Australian society held out the promise of expanding their reach to remove inequality and poverty for everyone. This piece of leg-
islation and its focus on workplaces crushes that promise of equality and fairness for everyone at work. It is, therefore, the largest regressive step squarely aimed at workers ever taken in the history of this Senate. It saddens me to see the Senate being used in such a way to remove the rights of workers and trade unions in this country. It angers me to see this Senate being used as a rubber stamp by the government to pass these regressive laws. And it appals me that this government has abused its mandate to govern for all of us and is now more than ever governing for the top end of town.

This bill does not enjoy support from any state or territory government around this country, from the weight of Australia’s industrial relations academics nor, most importantly, from workers across this country—and with good reason. It is really important in this debate here in parliament that we hear the voices of ordinary Australian workers. One group of people who will feel the negative impact of this legislation first are those already in a disadvantaged position in our work force: those with the least bargaining power, such as women from non-English-speaking backgrounds. Here is the voice of one such woman, who writes in a letter to the Prime Minister:

Dear Mr Howard

I was a clothing worker and I lost my job this year. Now I am a casual worker. Mr Howard your workchoices will make life very hard for me. I already have no security. I will have less security. Here is another letter from nine women who work in the textiles industry in one of the north-east suburbs of Melbourne. These nine women write what I think are very pertinent words with an important message to this government and Prime Minister. They say:

We want Australian to improve and to be competitive on the world market, but not in the way you plan to do it. The government should protect the workers because the government lives on the shoulders of the workers—like a sort of big mafia. The government takes tax while we work very hard but they don’t give us much back, especially with these new industrial relations laws.

The government will give the bosses more power to push the workers resulting in more injuries to the workers. Many of us are already working under too much pressure and too much stress. We are immigrants and we are very disappointed with the work culture in Australia.

We came here for a better life but all the factories are closing. We are on the streets without money. We know some changes are needed but not this way.

This legislation will have a dramatic impact on our Australian way of life. It will also have a dramatic impact on the quality of work done in workplaces across this country, the happiness of Australian workers and the stress people experience in their workplace, in financially managing their lives and in managing their work and family balance. It will also have a dramatic impact on the quality of services that Australians are able to access from other tired, overworked employees.

For example, take the fantastic health services provided by nurses around this country. As the Australian Nursing Federation said in their submission to the Senate inquiry into this legislation:

Nurses are at the forefront of the provision of health care and provide an important and valuable service to the community. One of the main motivations for people to undertake nursing as a career is a genuine desire to make a positive difference to the health and well being of the people they are caring for.

In their role as providers of care nurses often operate in chaotic settings where demands on their skills and time continue to increase. These increased demands at the workplace coupled with a professional commitment to the care and wellbeing of their clients has resulted in em-
ployers and governments exploiting nurses to maintain health services.

Offering nurses an individual contract containing lower wages and/or also reducing or removing shift allowances, weekend penalties, meal breaks, public holidays, and reduced annual leave, for example, will not lead to improved patient care; will not increase hospital through-put and will not save the health care facility money.

All Australians will suffer if we are not able to access quality health services provided by well-paid, relaxed, stress-free and happy nursing staff. A high number of nurses in Australia work on a part-time basis, and this is rapidly increasing. Just two years ago Australia reached the point where 50 per cent of nurses were working part time. I will now talk about the impact of this legislation on people who work on a part-time or casual basis.

One of the other areas in our community in which there is a high number of part-time and casual employees is the TAFE sector. Seventy to 75 per cent of all TAFE teachers are part-time or casual teachers employed from week to week and from hour to hour. Many of these teachers are doing more than a full-time teaching load and yet they are paid one-third less than full-time TAFE teachers.

Let me give you the example of a young man called Bruce, who has been a part-time and casual TAFE teacher in Sydney for five years. He is extremely concerned about the future of work and education if these laws are passed. Despite being a teacher for five years in the TAFE sector in Sydney he still has no job security, no paid leave and no holiday pay. He was involved in a long struggle at the Industrial Relations Commission of New South Wales with the support of his trade union, the New South Wales Teachers Federation, after which he gained a small amount of carer leave. Bruce says this about this legislation:

Our fear—

he is talking about part-time and casual TAFE teachers—

is that instead of continuing to converge towards the conditions of employment of full time teachers, the few gains we have made with things like carer’s leave are going to be lost which result in an erosion of conditions and increased stress for teachers.

Students deserve teachers who are valued by the education system and who are not just considered as simple labor costs.

I fear the death of TAFE and its replacement with a low cost low quality private sector provider, that gives minimal consideration to education and major consideration to making money.

One in three female workers in this country has no access to sick pay or annual leave due to the explosion in casual work. Since the Howard government was elected in 1996 more than 42 per cent of all new jobs have been casual, according to ACTU research. Australia now has the second highest proportion of temporary or casual workers of any developed country, with the vast majority missing out on entitlements that were once considered rights. Casual work was originally designed for short-term jobs or jobs with widely varying hours, but is increasingly being used by employers to avoid the payment of basic entitlements—things that were once rights.

The research shows that casuals, who make up 28 per cent of the work force, get paid 21 per cent less than permanent workers even though they receive an extra pay loading. The low pay and lack of permanency means banks are reluctant to lend to casuals. Only 35 per cent of casual workers own their own home compared to 60 per cent of permanent workers. Young people are more likely to be employed on a casual basis. Casual employees have lower expectations about
how they should be treated in the labour market.

The Greens have done some research on the impact of proposed industrial relations reforms on young Australians. The full report is available on Senator Siewert’s web site. One of the young people interviewed by the Greens in a focus group as part of this research was a man called Craig, who works in the finance industry in Melbourne. The comment he made to the researchers highlights the lack of bargaining power that he has with his employer. The young people involved in this research were asked whether they had ever asked their boss for a pay rise. Craig said this:

I’ve never asked and I know I feel like I should ask but I am not really game enough to ask because what does that lead to ... I already feel like I am on the outer so I don’t want to push over the edge.

I would like to conclude my remarks by reading a letter from a man called Brad, who is an electrical designer in Sydney. This is a letter that Brad has written to the Prime Minister. He writes:

Dear Sir,

I’m writing this letter to you so I can express my deep concerns about this proposed Industrial Relations Reform. I’m currently on an award based system where I enjoy overtime penalties, accumulative sick and annual leave, long service leave, rostered day’s off and union representation for when I or anyone else feels they are being mistreated by our bosses. This is just to name a few of the important issues at risk here.

The question I ask is this?

How can you support a piece of legislation that gives corporations the legal power to force me onto an AWA with only a bare minimum of bargaining items?

I’m not a bargainer! I’m just a hard worker who has decided to choose a union to collectively bargain for me on my and the rest of the employees behalf. And if I choose not to accept this ‘individual bargaining thing’, I then am forced to make some hard decisions without the confidence and ‘know how’ on what I deserve.

My wife, myself and my 9 week old daughter are at serious risk here!

I’m so ashamed I voted for a liberal government, who in the past has bought my vote through ‘Baby bonuses’ and ‘First Home buyers grants’. My family and immediate family also deeply regret voting for the Liberal government as well, as they know well and truly what’s at stake here for me.

You may call it ‘scaremongering’, but I call it facts about what could happen and keeping the ‘bastards honest’.

Please don’t reply to me saying that this is good for the economy and that I will still have union representation.

I’m disgusted and feel very nervous about what is happening to this Country!

Yours Faithfully

Brad

The Greens share Brad’s concerns. We are committed. The vision that we have for industrial relations and workplaces in this country is a just society that provides opportunities for all people to engage in work that is safe and secure, satisfying, socially useful, productive and environmentally sustainable. The Greens believe that the objectives of profitability and efficiency should never override social and ecological objectives. The ability of workers to organise collectively in democratic unions is essential to achieving a sustainable democratic future.

But this bill takes Australian workers on the opposite path. The Greens will not be part of taking Australian workers down this path and therefore we will oppose this legislation.
change to their workplace that may affect the security of their jobs or their take-home pay. Therefore, the government accept that with every reform we introduce, whether it be radical or soft reform, we are obliged to explain to the public the details and the reasons why we seek to introduce it.

We have done this for all our major reforms—no less for the 1996 industrial relations reforms and the tax reforms we introduced in 1997 or 1998. However, it is clear from listening to the debaters from the other side today, yesterday and, no doubt, tomorrow that no amount of detailed explanation will ever convince them or certain sectors of the community of the need for this reform. In fact, I cannot think of one major reform that the government have introduced that those on the other side have ever supported.

So there comes a point in time when the government have to decide what we consider to be in the national interest, when the debate must end, when we must act and what we wish as a matter of leadership to introduce. This is certainly one such occasion. This government have shown leadership in the past and the courage to take reforms to elections. Today after question time we had Senator Marshall, interjecting during my speech, saying he cannot wait for the next ballot to test this particular reform. So be it, because every reform, no less than for our first reforms in 1996 in industrial relations, has been tested at the ballot box and so will this. We await that judgment.

You have to say that our record thus far has been very good when we have put up our reforms at the elections, such as with the GST and industrial relations. Even for the first budget in 1996, when we had not been in government for more than six months, we introduced one of the toughest, if not the toughest, budgets—certainly of this government but I would say of any government—so as to lay the foundation stone of our economic credibility, to bring the budget into surplus over two or three years and to reduce the debt legacy that we had been left with. That was a pretty tough budget and the sort of budget that governments lose elections on. Again, we faced the ballot box and we were successful. As I said, history shows that our reforms have been successful and have always met the standards that we have set on their introduction. So it has to be said that the reverse is exactly true: on each occasion, the Labor Party have opposed our reforms, they have tested their stance at the ballot box and they have lost on four occasions.

We have confidence that this bill will create jobs and increase pay rates over time, and we have the record to submit and to justify that confidence. It has been said many times that our commitment is our record, in low interest rates, inflation rates, unemployment rates and, of course, wage rates—in less than 10 years there was an increase of some 14.9 per cent, which is a record Labor never matched in their 13 years of government.

We particularly reject the accusations from the other side. One by one, as members of the opposition have risen, they have accused this government of an ideological bent and no more—that that is our motivation: just simply ideological pigheadedness. Nothing could be further from the truth. In fact, these industrial relations reforms are pragmatic, as they are necessary. It simply proves that the Labor Party as an opposition have learnt nothing about this government’s modus operandi or about the message that the public have been sending them at each and every election—most of all at the 2004 election, the last election. That message was that a government with strong economic credibility and with the courage to reform will win the election. And, given the economic credibility that the government have built our record on, which is in fact our electoral foun-
dation stone, it is highly unlikely that we would commit political suicide and forgo that economic credibility that we have built up over 10 years.

In fact, the finger ought to be pointed to the other side when it comes to ideological bent and obsessions. All the ex-unionists on the other side are simply coming in here and thrashing up the old class wars. Without question, the best was Senator Carr. I would not invite anyone to go back and read his speeches in the *Hansard*. I am sure I will not get much objection from the other side when I say that Senator Carr’s speeches were the pinnacle of raising that old class war—raising that dark and menacing boss who stands over the poor, weakling worker. It fits the whole life that Senator Carr has tried to live: a delusional life, so be it, but he has gone a long way in living that delusion—but you can only live it inside the Labor Party.

*Senator Sandy Macdonald*—He’s the standover person.

*Senator McGauran*—Well! The picture that they paint is false, but they need to paint it to justify their jobs. It is so far from the truth. All that animation that we have seen, and we are yet to see, defends the old system that simply gave undue power to the unions and, worse, protected that rigid labour market. The 1993 reforms brought in by the Keating Labor government loosened the shackles somewhat, but, really, 1996 was a major step and now we take the next step. Prior to that, if anyone remembers the seventies, the eighties and the early nineties—

*Senator Ian Macdonald interjecting*—

*Senator McGauran*—Someone even remembers the sixties, but we are not going to admit to that—like France and Germany we had an unemployment rate locked in. It could never drop below eight per cent. It was around 700,000, peaking at a million in the nineties, but it was always fluctuating between 700,000 and one million.

*Senator Carr interjecting*—

**The ACTING DEPUTY PRESIDENT** (Senator Forshaw)—Order, Senator Carr! Senator McGauran has been heard so far in silence.

*Senator Carr interjecting*—

**The ACTING DEPUTY PRESIDENT**—Senator Carr, don’t interrupt me, please!

*Senator McGauran*—That is the highest price paid by Australian families for the sake of propping up an old system, and that is a locked-in unemployment rate. That is the experience that we still see in countries like France and Germany that have not modernised, that have not taken the courageous political steps necessary to change their industrial relations system and, in fact, their social system and lifestyle as we have done.

The Senate would be aware of the very ugly and remarkable fortnight of rioting in Paris recently. One of the measures of how out of control that society became over the two weeks was the burning and wrecking of thousands upon thousands of cars. Almost to a man, the rioters were unemployed, and commentators freely confessed that a great part of the frustration of the rioters was the fact that over 2.7 million French people are unemployed and have been for decades. One commentator put it quite succinctly in this way:

... France effectively chooses to accept high unemployment to protect those with jobs...

It is a mirror image of Australia in the sixties, seventies and eighties.

*Senator Carr*—The short straw!

*Senator McGauran*—France, I should add, has union membership as low as 10 per cent, yet the union agreements cover 90 per cent of the work force.
Senator Sterle—Where are you going? Where are you heading?

Senator Sandy Macdonald interjecting—

Senator McGauran—The real tragedy is the social problems that that generates.

The Acting Deputy President—Order! Things have suddenly got rather animated. It seems that everybody in the chamber has something to say, but Senator McGauran has the call and I think we should let him get on with it.

Senator George Campbell—Mr Acting Deputy President, I rise on a point of order. I draw your attention to the fact that Senator Sandy Macdonald has been constantly interjecting and he is not in his seat. If he wants to interject he should go and sit where he normally sits and interject from there.

The Acting Deputy President—The point is well made on two counts. Senator Macdonald, (1) you are out of your seat and (2) you should not be interjecting.

Senator McGauran—Thankfully we have a Prime Minister, a cabinet and a government that do not suffer from reform inertia. It is true to say that if we were intimidated by the public sabre rattling from the marchers down the streets of the major capital cities, or by the tens of thousands of petitions that are delivered to Parliament House, or by any of the shrill hysteria that is produced from the other side, or by the polls for that matter—when the polls go against us—we would have backed down on the 1996 reforms, which, under any analysis, were a bigger leap in industrial relations reform than those we are debating today. Then, we introduced individual workplace agreements, AWAs. The Employment Advocate was introduced. The toughening up of the secondary boycott rules was introduced. I believe that they were bigger reforms. The intimidation was so great. Who can recall the charge on Parliament House led by Ms Jennie George, the President of the ACTU at the time? They broke in through the front doors of Parliament House! That was pretty intimidating. They knocked over the police cordon and ran amok around the Great Hall. It was very intimidating, but the government stood firm on those reforms.

If we were going to back down and be intimidated by what the other side sought to visit upon us—the downward spiral in the polls, the marchers in the streets, the petitions and so on—we would have backed down on the waterfront. We would not have shown leadership on the waterfront. Who has heard of any strikes down on the waterfront lately? It is very quiet down on the waterfront. The reforms that they said could not be done have been done down on the waterfront. Then, ministers required 24-hour security. Ministers received death threats.

Senator Carr interjecting—

Senator McGauran—And of course there were the picketers outside the gates—one of whom is straight over there. From time to time they were very threatening towards the workers as they came to work. The other unions attempted to go out in sympathy but, because of this government’s strong secondary boycott laws, they were unable to.

Senator Carr—Mr Acting Deputy President, on a point of order: I understood that Senator McGauran just said that I threatened people at a picket line. When was that? On what basis does he make such an outrageous claim?

The Acting Deputy President—Firstly, I did not hear precisely what Senator McGauran said because I think you were shouting at the time. Secondly, I am not sure that you should ask that question of me. There is no point of order. I know that Senator McGauran has attracted an audience, but they should still listen in silence.
Senator McGAURAN—I was talking about how it is all so quiet now down on the waterfront, regardless of the enormous disruption and the difficulty that the government had in supporting Patrick in introducing those reforms. We saw our convictions through. As I said, we know how Labor are attached to an old world. We know about their utter inability to understand what really is in the national interest. They should try to forget politics from time to time when major reforms are raised in this parliament.

It is worthy of note that the industrial relations reforms cannot be divorced from a series of other economic and social reforms that we have introduced and are about to introduce. Those reforms are all designed to meet the economic challenges of the future. In the budget papers of 2002 the Intergenerational report was tabled. In essence, that report articulated what we have all known for some time—that Australia is facing an ageing population as the baby boomers reach retirement and that that will have a cascading effect on the government’s tax base. Unless serious reform is undertaken within the next 20 or 30 years, the government of the day—possibly this government!—will have budget difficulties and will be severely strained in meeting its commitments across all portfolios, none less than pensions, health and education. It will be a question of sustainability for a future government.

One of the keys to meeting the challenge of an ageing population is greater workplace participation to counter labour shortages. We have already enacted many reforms, as I said, such as in superannuation and through incentives for pensioners and self-funded retirees to give them a greater working capacity and to change the culture of the employment of aged workers. In a matter of days the government will introduce the Welfare to Work reforms. These industrial reforms fit today in that they are an integral part of a workplace that needs to be more flexible and productive for those seeking to return to work and those seeking to employ. Australia will not be able to meet the challenges of its ageing population unless it does have a strong economy. A modern industrial relations system is the foundation stone of economic success.

There is a good reason why the Labor Party speakers have been so shrill in their attack upon this bill and the government. There is a good reason why they have exaggerated every aspect of this bill in the desperate hope that they will see it defeated: this bill will see a fundamental change to the old system, which dates back to the early 1900s. It is a dinosaur that has served the Labor Party’s political base well but has not served Australia well. The call for industrial relations reform really does go back to the seventies and eighties, when union abuse of power was most rampant. In those times, there was no effective secondary boycott provision and the country frequently ground to a halt with national strikes, electricity blackouts and waterfront stoppages. You could always guarantee that at around this time of the year the unions as a whole would go out and threaten the country.

Our international reputation as an unreliable exporter was notorious. The biggest loser in those days was the farming sector, the rural sector, which exported 70 per cent of their produce, and to this day they still export 70 per cent of their produce. Those were the years when wage demands far outstripped productivity gains, which of course fed into inflation and higher interest rates. It is worthy of note that it was during those years that we saw the creation of the National Farmers Federation, which brought together all the state farming bodies as a national body, and for the first time there was a single voice for the rural sector.
It can be said that it was the National Farmers Federation more than anyone else who kicked off the industrial relations debate, which brings us to this somewhat historic day. It was the NFF who initially set to change the culture and the laws of our industrial relations system. The first big battle, the first landmark, when the wheels first started to turn—albeit very slowly—was the famous Mudginberri case. That is when the winds of change first blew. It was the NFF from that time through to the waterfront dispute in 1997 who led the significant reforms on the waterfront and who backed Patrick in their pursuit to reform the waterfront.

So the NFF have been to the forefront. The rural sector, right down to the farm gate, has benefited from their efforts to reform the industrial relations system. There can be no doubt that the greatest benefactor of these current reforms will be the rural sector. However, it has not just been peak bodies like the NFF and the Business Council of Australia who have called for reforms. The IMF, the OECD, Access Economics and the Reserve Bank have all made a case for further reforms, and if those on the other side seek the documentation they will see that. In conclusion, this bill is critical and is in the national interest. I urge the Senate to pass it.

Senator Faulkner (New South Wales) (8.11 pm)—United we bargain, divided we beg. That simple truth underlies the foundation of the union movement and it underlies the foundation of the Australian Labor Party. In the 19th century, working Australians were at the mercy of their employers. The legislation that governed their working lives was the Master and Servant Act. In a time without pensions, welfare or public health care, they had to accept any work, for any pay, at any conditions, or face starvation and ruin. As individuals in the workplace, they could not stand against the political power of the wealthy and the privileged. But they could stand together: first, in the unions in their workplaces, where the strength of solidarity was a fair match for the force of finance; then, in a political party—the Australian Labor Party—where collective action became collective voting, and working Australians had a voice in parliament to protect their interests and to work for their industrial rights, their economic security and their human dignity.

For the whole of Australia’s history as a nation, working men and women have stood together to support and assist each other. Our labour movement has been guided by two great truths: firstly, the practical realisation that we each of us do better together than we do alone; and, secondly, the deep conviction that we have an ethical obligation to look beyond our own interests—the conviction that the welfare and wellbeing of the person working next to us, or in the office across the street or in the factory down the road is our responsibility and our concern.

Perhaps you think that I must be biased. Perhaps you think that my assessment of the importance of the union movement lacks objectivity. I would like to quote the opinion of someone who spent a lifetime in politics, and quite a lot of that time as Prime Minister of Australia:

The trades union movement has meant a great deal in our industrial history. It has represented collective bargaining. It has given strength to the workers as a group which no worker as an individual could have possessed. It has been an effective weapon against the obdurate or short-sighted employer. It has had supreme value in the working of the characteristically Australian system of compulsory industrial arbitration. As a servant of the wage earner, unionism has done an extraordinarily good job of work.
The speaker was Robert Gordon Menzies in 1942. Those who only know the Liberal Party from its current incarnation, after John Howard’s years of purges, might be surprised to hear the great Liberal icon and founder speaking so forthrightly and so enthusiastically about the virtues and values of the trade union movement. But the Liberal Party that Menzies founded was not bound in Mr Howard’s ideological straitjacket. In his 1946 policy speech Menzies said:

The wage-earner in an industry is a human being whose welfare should be the care of the industry in which he co-operates. Legal duties and legal wages are not all.

The founder of the Liberal Party was not arguing to reduce the obligations on employers. He was urging employers to meet and exceed legal minimums. He went on to remind his audience that when employers had ‘an automatic resistance to all claims and a belief that the only obligation to employees is to be found in minimum wages and conditions’ they were creating the conditions for industrial conflict and social disharmony.

So what did Menzies, that great hero of John Howard and the Liberal Party, say were Liberal principles and values? He said that the Liberal Party stood for good wages and conditions, for the prompt re-examination of the basic wage by the arbitration court, for the provision of adequate tribunals for the timely rectification of grievances, for profit sharing, for ample security against unemployment and old age and sickness and for a fair day’s work for a fair day’s pay. Menzies said that the Liberal Party:

... believes in Trade Unionism and in the protection by law of the rights secured by wage-earners. And, because it believes in all these things, it stands for a fair industrial law which will be enforced without fear, favour or affection against employer and employee alike ... We aim at high wages ... good conditions ... sharing of prosperity ... the independent settlement of differences by Conciliation and Arbitration.

How different is it today? John Howard has remade the Liberal Party in his own image. The Howard government, John Howard’s Liberal Party, is introducing legislation that is based on the idea that the only obligation to working Australians from either employer or government is minimum wages and conditions. John Howard, the self-proclaimed heir to the Menzies tradition, is taking the setting of the minimum wage away from the independent Industrial Relations Commission and giving it to a hand-picked Fair Pay Commission strictly forbidden to consider fairness when it sets that wage. He is taking away Mr Menzies ‘adequate tribunals for the timely rectification of grievances’ and he is throwing employees and employers back on the courts and the common law.

It is not just this one piece of legislation we are debating now. Menzies believed in ‘ample security against unemployment and old age and sickness’—the very principles under attack from the Howard government’s so-called Welfare to Work legislation. And Mr Howard is viciously attacking the ability of working Australians to get aid and assistance from their unions, from those very organisations that Menzies praised so highly as having ‘been an effective weapon against the obdurate or short-sighted employer’ and as having, in his words, ‘given strength to the workers as a group which no worker as an individual could have possessed’. Indeed, it is hard to escape the conclusion that if Mr Menzies were in federal parliament today he would find himself unable to vote for a bill that so thoroughly betrays his beliefs, his principles and his values.

Even today another former Liberal Prime Minister, Malcolm Fraser, said of the Howard Liberal Party, ‘It is unrecognisable as Liberal.’ No previous government has so enthusiastically trashed the idea of independ-
ence and impartiality in our industrial relations system. No previous government has gone so far as to legislate for industrial outcomes rather than industrial instruments.

It is hard to escape the conclusion that if Mr Menzies, with his firm belief in, in his words, ‘a fair industrial law which will be enforced without fear, favour or affection’, were in John Howard’s Liberal Party, he would have to cross the floor on this bill. Menzies was conservative—very conservative—but at least he never envisaged turning back the clock in Australia’s workplaces to the 19th century. Mr Howard has sold out not only on public holidays, penalty rates and the minimum wage and on working Australians but even on his hero, Sir Robert Menzies.

Instead, the voice advising the government today on work force rights and workplace justice is Peter Hendy, Australian Chamber of Commerce and Industry chief executive and, not coincidentally, Peter Reith’s former chief of staff. Mr Hendy claims the government’s proposals will boost productivity by increasing trade-offs for wages and conditions in the workplace. I have no doubt about the trade-offs Mr Hendy has in mind. Mr Hendy has real form.

Can we expect the kinds of trade-offs that the employees of Patrick Stevedore found they had to make when they arrived at their workplaces and found them locked and patrolled by Rottweilers and by mercenaries in balaclavas? Will they be the kinds of trade-offs that happen when your employer shifts staff to a shelf company and assets are held in another company to avoid fulfilling contracts and paying entitlements, as happened to those waterside workers in 1998? Peter Hendy was in that plan up to his neck. Any trade-offs and flexibility that Peter Hendy thinks are a good idea ought to make working Australians both alert and alarmed.

Hendy’s appointment to this cushy sine-cure at the Australian Chamber of Commerce and Industry was a reward for his role in the notorious ‘children overboard’ deceit. When the Senate inquiry into A Certain Maritime Incident sought to ask Mr Hendy about his role in that massive fraud perpetrated on the Australian people, he was nowhere to be found. On four occasions he was invited to appear to give evidence but not once was Hendy willing to face the music. It was a very different story with the recent grotesquely abbreviated Senate committee inquiry into this Work Choices bill. Hendy could not get to the witness table fast enough to ingratiate himself with the government, toadyng to John Howard and Kevin Andrews and singing the praises of this brutal attack on working Australians. He was a key player in one of the most divisive election campaigns that federal politics in this country has seen. It is no surprise to see Peter Hendy, along with that other ‘kids overboard’ player and henchman, Ian Hanke, as camp followers to the government on this legislation.

John Howard and Kevin Andrews have taken a great deal of trouble to target the farcically named Work Choices bill straight at unions, the labour movement and the representatives of working Australians’ collective interests and collective concerns. Work Choices is about preventing working men and women from making any choice that involves collective strength, collective bargaining and collective interests. The labour movement is enduring proof of the Australian values of mateship, egalitarianism and fair play. No wonder it so offends John Howard and his brand of divisive, ideological and extreme Liberalism.

But I can tell you now that this vicious and brutal attack on working Australians and the values we hold dear will ultimately fail. The labour movement together has toiled for
more than a hundred years in the service of the industrial rights, economic security, and human dignity of working men and women. John Howard seeks to strip away the gains we have made in that century of effort. He seeks to strip fairness from the workplace and security from our families. This bill will be rammed through the parliament now that John Howard has total control and can pursue his extreme ideological agenda. It will be rammed through this chamber. But I want to say here tonight that the Australian Labor Party and the Australian union movement are here for the long haul. We have seen a century of struggle and we know that our greatest victories are yet to come.

Senator Barnett (Tasmania) (8.30 pm)—As a government senator on the recent Senate workplace relations inquiry, I am pleased and honoured to speak in favour of the Workplace Relations Amendment (Work Choices) Bill 2005. I am pleased and honoured because I believe it will deliver higher standards of living for Australian men and women and their families. It will deliver more jobs, higher wages and a stronger economy for Australia. I want to acknowledge the work and leadership of Senator the Hon. Judith Troeth and Senator David Johnston as the government members of the workplace relations committee of inquiry that was recently held. I want to acknowledge Senators Santoro, Fiona Nash and Barnaby Joyce, who all participated during that inquiry.

In 1997, it was the UK Labour Prime Minister, Tony Blair, who told the Trade Union Congress:

... fairness at work starts with the chance of a job ...

This is the crux of the current workplace relations debate in Australia. I can see no economic blight on society more serious than a person helpless in the soul-destroying quest for a job. There are 700,000 children in Australia growing up in a household where no one has a job. Those children are entitled to grow up in an environment where the mortgage is affordable, where there is food in abundance and where the family savings account is growing. Sadly, the union movement has abandoned the jobless, because its primary concern is those who have a job and pay union dues. Is it any wonder that union membership has dropped to 22.7 per cent of the total workforce and to around 17 per cent of the private sector workforce? At the same time, unions are tucked up in bed with Labor, having donated $47 million to the ALP since 1996—and this point was raised again during the recent Senate inquiry.

While Labor is a captive of the union movement, the Howard government since 1996 has created 1.7 million new jobs, of which 900,000 are full time, thereby creating the lowest unemployment rate for more than 28 years. Having found jobs for 1.7 million Australians, the Howard government has increased wages by 14.9 per cent in real terms, compared with a miserly 1.2 per cent growth rate in real terms for workers under federal Labor. There is a win-win for workers and the unemployed under John Howard. Australia currently enjoys record low interest rates and the lowest level of strikes since records were first kept in 1915. We are enjoying levels of prosperity not seen since the 1950s because of good economic management and a government with the guts—repeal: with the guts—to pioneer workplace relations reform and to create more jobs.

We could rest on our laurels, but if we do the world will pass us by and the hard gains which have been won and which have won us in Australia solid economic and wages growths, created jobs and given more young Australians their first home would be squandered. For the sake of these young Australians in particular we must remain world competitive and boost productivity through
reform to the workplace. A report called *Locking in or losing prosperity: Australia's choice*, written by Access Economics for the Business Council of Australia, shows that without the workplace relations changes already made, unemployment would have been 8.1 per cent in 2003-04, rather than 5.8 per cent, and an extra 315,000 people would have been out of work. The report says that each Australian could be $70,000 wealthier if workplace participation rates increase and further workplace relations reform is undertaken.

In response to all of this, the unions have embarked on a purely self-serving membership recruitment campaign by demonising the Work Choices reforms and by plain scaremongering. They have said Howard’s reforms will cause an increase in divorces—as noted by the Hon. Kim Beazley—civil riots and higher road deaths, and they have even likened them to fascism—compliments of the New South Wales Minister for Industrial Relations, the Hon. John Della Bosca. Victorian Labor MP Bob Smith even suggested the reforms will lead to American style murders of women and children on picket lines. Of course, the Labor-union movement were just as vitriolic in opposition to workplace relations reforms in 1996 and the GST reforms in 1998. But the sky has not fallen in. I quote the current shadow minister for workplace relations, Mr Stephen Smith, who argued prior to the 1996 election:

> The Howard model is quite simple. It is all about lower wages; it is about worse conditions; it is about a massive rise in industrial disputation; it is about the abolition of safety nets; and it is about pushing down or abolishing minimum standards.

Comments such as this are effectively no different to comments made nearly 10 years later when Mr Stephen Smith said:

> Firstly, these changes will be unfair, they’ll be divisive, and they’ll be extreme. And secondly so far as they impact upon Australian employees and their families they’ll have the affect of reducing their wages, stripping their entitlements, and removing their safety nets ...

Well—groundhog day—the sky has not fallen in. In fact, the Howard government has delivered higher wages, more jobs and a stronger economy. What is this all about? The ACTU Secretary, Greg Combet, on 29 May 2005, said ‘We need a change of government.’ That is what it is all about. It is about a political campaign by the union movement, not concern for Australian workers or those out of work. Labor leader Kim Beazley, when talking about the unfair dismissal laws, said as recently as 21 July this year in an ABC radio interview:

> The problem that they—the employers—confront, is when you get a bloke, or a person who is an employee, who’s a con artist, a rorter, who knows that if you can get the small businessman to shut his shop for a couple of days, drag him down to the IRC, put him through the mill it’ll be worth ten grand for him to send you away. And you get a lawyer who’s prepared to do it for that and take three from you and you take seven and walk out the door.

This is despite federal Labor using the Senate 41 times to block the reforms aimed at reducing these unfair dismissal rorts.

The current costs of small business compliance with unfair dismissal laws have been estimated by the Melbourne Institute at $1.3 billion a year. According to the Restaurants and Caterers Association, it costs on average $3,600 and around 63 hours of management time, primarily of small businesses, to defend an unfair dismissal claim—money and time most small businesses can ill afford.

The government has boosted the threshold figure for unfair dismissal exemptions from 20 employees to 100. But, even so, all employees will enjoy protection from unlawful termination. In other words, it will be unlaw-
ful for an employer to terminate an employee if it is based on discrimination for unlawful reasons, including age, race, colour, sex, sexual preference, physical or mental disability, marital status, family responsibilities, pregnancy and religion. All prohibitions against harassment, bullying and discrimination under state law will continue to apply, as will state occupational health and safety laws and federal laws relating to signing an agreement under duress.

The government will expand the scope of the Office of Workplace Services to create a one-stop shop to ensure that employers and employees know their rights and obligations and that these are fairly enforced. A readily accessible single agency will provide further protection for employees. The Office of Workplace Services will have the power to enforce compliance with the Workplace Relations Act and the number of inspectors in the Office of Workplace Services will increase from 90 to 200.

The recently concluded inquiry by the Senate committee—of which I am a member—into the reforms requested that the government consider more safeguards for workers, including outworkers in the clothing and footwear industries; clarification over the 38-hour working week; and making it clear that an employer can only give 90 days notice to terminate a workplace agreement after it has expired. I thank Minister Andrews and the government for agreeing to consider these suggestions. The Senate Employment, Workplace Relations and Education Committee inquiry had hearings for five days. Despite claims that it was rushed, it heard from 105 witnesses and took 5,400 submissions—mostly pro-forma ACTU spam or letters—and 200 substantial submissions.

Unions are campaigning against Australian workplace agreements, AWAs, but employees on AWAs in Australia on average earn 100 per cent more than their colleagues on awards and 13 per cent more than colleagues on collective agreements, according to the May 2004 ABS survey. We know the position of the unions: they adamantly oppose AWAs. I would like to know Labor’s definitive position on AWAs. Do they support them or do they oppose them? What is their position? There are currently 130 pieces of industrial legislation and 4,000 awards across the federal and state jurisdictions. It is no wonder unions want to preserve awards as the hallmark industrial agreement, as awards give unions an automatic place at the negotiating table and hence an automatic cache of union dues for unions and the ALP. This regressive and self-serving relationship between the ALP and the ACTU has alienated the average worker as mere cannon fodder in a campaign more about politics and power than working conditions, while the unemployed hardly rate at all.

I want to commend the small businesses across Australia, of which there are about 1.2 million. They produce 30 per cent of our GDP and account for just under 50 per cent of the private sector workforce. I particularly note the small businesses in Tasmania, which account for about 50 per cent of the private sector workforce there. There are about 30,000 small businesses in Tasmania, my home state. Small business will benefit under these reforms because of the flexibility that they offer.

I note that the government’s reforms have received the support of COSBOA CEO Tony Steven; the Australian Industry Group, AiG, and Heather Ridout; the Business Council of Australia; and the Australian Chamber of Commerce and Industry—and Peter Hendy’s leadership should be acknowledged. They specifically referred in their submission to 54 reports from the likes of the OECD, the IMF, the Reserve Bank, the Productivity Commission and Access Economics in response to
allegations from Labor, unions and others that there was no evidence in support of workplace relations reform. They delivered that evidence—and in spades. The Tasmanian Chamber of Commerce and Industry support the reforms, and we thank them for their support and the leadership of Damon Thomas. Peter Corish from the National Farmers Federation should be acknowledged, as should the Master Builders Association and the Housing Industry Association.

The government has been accused of causing further inequality in the community. Page 27 of the government senators’ report highlights the fact that the Household income and income distribution report released by the ABS on 4 August 2005, this year, shows that there was no significant change in income inequality between 1994 and 2003-04.

I now want to address and respond to the disingenuous comments by Labor senators on page 52 of the Senate report—and, specifically, recent comments made by Senator Marshall—where they note in that report that ‘Professor Peetz’s assessment was right and Senator Barnett’s wrong.’ Labor senators say that the department supports Professor Peetz’s view on page 50 of the Hansard of Friday 18 November. Senator Marshall has clearly misrepresented the position of the department and Ms Centenera, in particular, and an apology should be offered to her as it should be to me.

Businesses in this country should be able to make decisions based on their operational requirements and the government believes this to be the case. Termination on the basis of operational requirements has been accepted by the Australian Industrial Relations Commission as a valid reason for dismissal. This is a well understood concept in Australian law. The concept of a genuine redundancy has always existed under the unfair dismissal provisions of the Workplace Relations Act 1996. Redundancy due to operational requirements is currently a valid reason for dismissal under the act. Under Work Choices, even if the employer claims the dismissal was for operational reasons, an employee still has the right to make an unfair dismissal application. An employee has the right to contest the issue of whether the termination was for an operational reason as part of the unfair dismissal claim process. The employer must convince the AIRC that the dismissal was genuinely due to operational reasons. If the AIRC finds that the alleged operational reason was a sham then the employee is free to pursue their unfair dismissal claim.

Some critics have also dishonestly portrayed how the operational requirements provisions will operate. It was on the ABC radio’s AM program on 3 November 2005 that Professor David Peetz—the resident bard of workers online, and referred to by Senator Abetz in the Senate chamber on many occasions—asserted as follows:

There’s a provision that says that for employers of any size, if you’re dismissed, and part of the reason for your dismissal is to do with operational reasons, and that can mean all sorts of things, if you’re something to do with the structure, or technical requirements, or whatever of the organisation, then you can be dismissed, you can be targeted for dismissal, because the boss doesn’t like the way you chew gum, or whatever, and you’ve got no recourse for unfair dismissal.

It is completely incorrect to assert, as Peetz does, that an employee dismissed for such reasons has got no recourse for unfair dismissal. An employee still has the right to make an unfair dismissal claim and contest the validity of the operational reason. It is dishonest and absurd to suggest that the AIRC would accept that an employee chewing gum was a valid operational reason to dismiss them.
The Work Choices bill at clause 114 on page 356 makes this clear. I will not read it into the Hansard; I will refer it to Senator Marshall, and other opposition senators, to read themselves. If the AIRC did not believe the termination was for genuine operational reasons, the claim for unfair dismissal could proceed. It is now the case, and will continue to be after the passage of the Work Choices bill, that an employee who was purportedly terminated for operational reasons but in fact was terminated for a prohibited reason—for example, sex, religion, union membership or refusing to agree to an AWA—will be able to claim unlawful termination. There we have it.

In conclusion, I say that the Labor-union campaign has been an hysterical overreaction to the government’s proposals and as the Prime Minister, John Howard, has said, people will wake up next year and the year after and ask themselves, ‘What has all the fuss been about?’ The Howard government has delivered in the last 9½ years and it will continue to deliver for the Australian people; for the Australian men, women and their families.

Senator MARK BISHOP (Western Australia) (8.49 pm)—I want to address in this second reading debate some of the more pressing issues behind this draft bill—the Workplace Relations Amendment (Work Choices) Bill 2005. At the outset, without exaggeration or hyperbole, it should be said that the Australian people should not have any doubt that this is the most doctrinaire and revolutionary piece of legislation considered by this parliament for many years. Therefore, I wish to address this bill in that changing industrial context.

It is commonly known that there were three major events which shaped Australia in the 20th century—the two world wars and the Great Depression. Each of these was global in effect; each took the Australian population a generation to recover from. But, despite those setbacks, Australia grew as a nation to become greatly prosperous. We took our place in the world as a nation formed on principles of equality and a fair go. We were largely a classless society with well-established democratic principles. Liberty, equality and fraternity sat well with us. They became enshrined in our constitutions, our institutions and our public ethos. We had common values including, importantly, religious tolerance. We shared a responsibility for those of lesser means. Income redistribution in this country and the provision of welfare based on means has rarely been questioned.

In world terms, Australia had a very useful mix of both economic and social policies. Industrially, though, it was often difficult, often tough. This was as a result of international tensions between labour and capital, fed by those three crises. Negotiations on working conditions were often disruptive and costly. However, despite our considerable industrial turmoil, our industrial policies supported our common values. These were enshrined through court cases and eventually formed a solid body of industrial law. We developed laws and institutions which evolved to match the circumstances of the time. Today, their maturity has led us into an era of industrial peace never known in this country. We have enjoyed enormous growth in productivity.

During the 1980s and early 1990s we saw enormous changes in workplace relations. We saw the ALP-ACTU led reform, which brought about an enormous productivity surge. Those changes provided much of the base for our recent national economic growth and success. That process involved considerable restructuring. Unions were amalgamated and awards were often restructured. The wages accord saw an end to the Howard-
Fraser induced rash of inflation. The economy was put back on track after the appalling mismanagement of the then Treasurer, the current Prime Minister. But how quickly people on the other side forget.

At the end, however, the basic principles and values were preserved. We built a stronger economy with an even fairer workplace. The emphasis was on working together. It was a process of management realising that their work force was their most important asset. The theme was: people, people and people. Capital investment in equipment was vital, but so was investment in the workplace. Training and skills were paramount. Enterprise bargaining recognised the need for flexibility. It also recognised the need for a useful share of profit, based on productivity at the workplace. In healthy workplaces, management and unions and their work force worked cooperatively for a common end. It may not have been perfect, but it was streets ahead of the old confrontationist environment. Harmony in the workplace is still unsurpassed in Australia—all based on those reforms of the middle eighties and early nineties.

However, at the time of the growth of the accord an undercurrent began to develop. That undercurrent was based on the far Right of conservative politics. They argued for deregulation of the labour market in absolute terms. The Prime Minister was their cheerleader. Their first ambition was to smash the unions for purely political reasons. In addition, they shared a very dry—as it has become known—approach to economics based upon the theoretical operation of the marketplace. Labour was just another input to the processes of production. It should be subject to the laws of supply and demand like every other input. No recognition was given to other values, or to the overall health of the general community or society. This was a bare, 18th century philosophy: survival of the fittest. Having deregulated, the role of government was to, in the most minor and insignificant way, pick up the pieces. That is exactly what this workplace reform, Work Choices, does. The dries of the 1980s have finally won through. This legislation throws out over 100 years of history. It abandons everything working people have fought for over the last 100 years.

There are three undesirable themes to this workplace reform legislation before the chair at the moment. First, there is a sinister and cunningly calculated political agenda. Second, there is the overturning of a core of values in our society, of which our workplaces have become central. Third, there are a range of social consequences the likes of which few have contemplated—that is, except for the masterminds of this most elaborate plan. I call this plan ‘elaborate’ quite deliberately. It has been contrived after years of frustrated ideological fervour. It is based upon a narrow view of society.

This is the plan: first, as always, there is the political agenda. There is only one goal here: to eliminate collective bargaining—that is, to divide and rule—and to deal with the individual employee as a contractor for a fixed period. For those who believe unity is strength, forget it. Unity is out; power is back. The removal of collective bargaining means a further decline of the unions. New restrictions on union activity in the workplace will make it even harder. That weakens the trade union movement. It attacks directly the base of the Australian Labor Party. The conservative dream of a one-party state is suddenly realisable and suddenly available. That is the Lee Kuan Yew model: a guided democracy.

This brings me to the second part of the plan: the radical changes to the workplace. The industrial relations regime in Australia has played a most important part in the shap-
ing of our national culture and the values that
derive from that culture. Fundamentally, those values are based on the notions of
equality and a fair go. The responsibility of the employer for the employee was forged
over a century. At the heart of this, until more recent years, has been a commitment
to, responsibility for and obligation of per-
manent employment—that is, a value which
says that the employer values the commit-
ment of employees. In return, the employee
commits to the employer and the health of
his enterprise or business.

When done at a collective level, this has always formed a contract which has ensured
certainty on both sides. As we know, this path has not run smoothly. As we have seen
over the last 15 years at least, though, indus-
trial activity and industrial action has never
been so low. The formula, formed over much
time and given expression in the mid-1980s,
is working and working well. That is where
the productivity has come from. We have
grown beyond the adversarial world of crude
force as part of a tripartite pact. Government,
business, the union movement and employ-
ees have all gained.

The third downside of this master plan is
the unanticipated social consequences, unan-
ticipated by some and deliberate by others.
Because this plan is about the individual, not
the collective good, individuals will neces-
sarily suffer. The protection of the collective
is to be stripped away. Gone will be the con-
cept of continuous employment or perma-
nency, and with that also goes certainty of
income—important elements in our society,
although, it must be said, they have been
breaking down somewhat slowly in more
recent years. The principal cause of this has
been what has been termed by many as the
'casualisation' of labour. The proportion of
part-time and casual work has grown at the
expense of full-time work. This is described
as 'flexibility' and for some it has been bene-

There is always, however, a downside and
that concerns the loss of permanency and the
financial uncertainty that goes with that loss
of permanency. The effect has been most
marked with middle-aged men. That is the
price of flexibility and this legislation will
accelerate it, particularly the new dismissal
provisions. Loss of job certainty, lower su-
perannuation, sporadic work patterns and
poor savings over time all add up. The ca-
pacity to borrow for a family home will sim-
ply be a dream for many. The social implica-
tions of this are obvious. Awards will be-
come redundant and will form only the most
minor and the most basic of safety nets. The
real safety net will be income support from
the taxpayer, and this is already becoming
the new form of income redistribution rather
than by way of the tax system. As part of this
plan, the Howard government has been pay-
ing family benefits and bonuses very gener-
osely in recent times. It has become a popu-
lar vote winner, but of course it has, as al-
ways, an ulterior purpose. The purpose is to
get minimum wages determination out of the
industrial environment. That is why we are
going to have the so-called Fair Pay Com-
misson. The minimum wage will indeed be
as it is described, a true minimum. It will not
be negotiated; it will be set by a group in the
Fair Pay Commission. Supplementation
through family benefits will be for the gov-
ernment to determine, according to what the
government of the day thinks can be af-
forded.

There is another rub, too. Instead of wages
being more remote from government control,
direct influence over wages will be estab-
lished, via this body, for government. Mini-
mum wages will become dependent on the
budget itself. This is a very different form of
income redistribution than we have under-
stood in this country for decades, if not a
century. In fact it may be more efficient and fairer than the tax system, which to date is so full of tax avoidance. It may well be that the principle ‘to each according to their need’ as a value will be enhanced. ‘From each according to their capacity to pay’ will be as problematic as it has always been.

But those who are listening do need to understand the detail of this carefully drafted plan. It is a devious plan with serious long-term social consequences. It is why the Prime Minister trumpets every day that he is the working man’s best friend. He is not, of course; he is the best friend of the employer, who will be able to reduce his wages bill. For the low paid the government will be paying a wages subsidy to employers. That is what productivity means to the Howard government. It is not about working smarter or building skills over time. It is about cutting costs, but cutting those costs at public expense. With reduced safety nets and awards restricted below current levels in real terms, wages can and will be, as the market operates, pushed even lower. The taxpayer will make up the difference.

In conclusion, the workplace relations legislation is, as referred to by speakers on both sides, a real watershed in our history. The Prime Minister’s ideology, poached from Great Britain in the 1980s and the United States Republicans now has its head. Australians need to understand the plot and the consequences of implementation of this plan. They are being conned again. The trouble is that the penny is starting to drop and the consequences of this legislation are going to be visited perhaps in two years time. Thank you.

Senator FERRAVANTI-WELLS (New South Wales) (9.05 pm)—I rise this evening to speak in favour of the Workplace Relations Amendment (Work Choices) Bill 2005. It represents the implementation of the government’s fourth-term workplace relations reform agenda as well as addressing a number of longstanding policy commitments which have been blocked in the Senate since 1996. It is comprehensive and necessary reform which will see implemented a number of new policy items. It also builds on the reforms introduced by the coalition in 1996. Today we are one of the strongest economies in the world, but we need to move on in a global marketplace. We cannot stand still.

In Australia today we have six different workplace relations systems, 130 pieces of industrial relations legislation, 4,000 different awards and 30,000 classifications. It is clear that the system needs reforming. Work Choices will move Australia towards one simpler national workplace relations system. Up to 85 per cent of all Australian workers and most incorporated businesses will be covered by the new system. By a simple referral of powers by the states, a national system covering 100 per cent of employees could be achieved. This would free up to $120 million, $40 million of which is the cost of the New South Wales system alone, to go towards hospitals, schools and roads.

We have seen a lot of posturing by those on the other side and their union masters. They know there is need for change. Senior members of the Labor Party have been telling us this over many years. I could use my entire time this evening quoting them. I will confine myself to citing only a number. In 1990 Bob Carr said:

In a nation of 17 million people struggling to modernise its economy, seven separate systems of industrial regulation are an absurd luxury.

The Victorian parliament Hansard of 21 November 1996 quotes Steve Bracks:

The opposition supports in principle the concept of a single national system of industrial relations, and it always has. It can deliver benefits to both employees and employers by creating a uniform national framework for dispute resolution.
and the application of minimum employment standards that can be more easily complied with and enforced.

Workplace relations laws affect jobs, investment, productivity, competitiveness and economic activity. In turn, these affect our living standards. This reform is about all Australians; it is about employers and employees and ensuring we create an appropriate framework for an effective working relationship between them. Past reforms have sought to make Australia’s workplaces more flexible and responsive to change. However, complex and detailed red tape for agreement making remains at the core of Australian workplace relations. Too many of the processes, rules, regulations and requirements are complex and costly. This is not good for business, it costs jobs and it is holding Australia back from achieving so much more.

Work Choices will replace a rigid and outdated system that was designed over 100 years ago to deal with another era—it is not geared for the challenges we face today. Ten years ago the union movement and the ALP predicted that the Workplace Relations Act would drive down wages, slash and destroy working conditions and increase unemployment. How very wrong they were. Today the mantra of our opponents is, once again, that reform will erode fairness. They were wrong in 1996. They are still wrong in 2005.

Fairness does not require complexity, because complexity impedes fairness. Fairness is best ensured by a system which is easily understood by both employers and employees—understanding not only their rights but also their respective responsibilities. Economic reform, including workplace relations change, produces benefits. The experience of the last 10 years is testimony to this: 1.7 million new jobs created; the lowest unemployment in almost 30 years; real wage growth of 14.9 per cent, compared to 1.2 per cent in 13 years of Labor; and the lowest levels of industrial disputes since records were first kept in 1913.

In this context, I would like to highlight that in the Illawarra, where my electorate office is located, unemployment has effectively halved since 1996, in Cunningham it is down from 11 per cent to 6.7 per cent and in Throsby it is down from 12 per cent to 6.5 per cent. A similar trend is clear in other seats in New South Wales where I am currently patron senator. For example, unemployment in Charlton is down from 11.2 per cent to 5.9 per cent; in Lowe, from 5 per cent to 2.5 per cent; in Werrriwa, from 10.2 per cent to 5.8 per cent; and in Greenway, which Labor lost at the last election, from 8.8 per cent to 4.7 per cent. We now have a generation of Australian workers who do not know about economic downturns or, even worse, a recession. They only know an Australia with low unemployment, stable interest rates, low inflation and increasing real wages. This is a generation that knows that they have nothing to fear from change.

Many employees today perform a wide range of tasks. They use technology in a sophisticated manner. They use their initiative. They are accountable more for contributing to business outcomes than for performing routine tasks during set periods of work. More and more Australian workers are working in many different ways in workplaces across the country. Employees want to contribute to the best of their abilities. They appreciate recognition and reward for good performance. They realise they will benefit from helping their business be as successful as possible. The best arrangements are those developed by employees and employers at the workplace level. They should be sensible, simple and fair arrangements that recognise and reward the matters important to employers and employees at that workplace.
I have cited some Labor figures who have advocated reform. I would like to add just one more. In an address to the Institute of Company Directors in 1993, Paul Keating outlined his vision for the new Australian labour market. He said:

Let me describe the model of industrial relations we are working towards. It is a model which places primary emphasis on bargaining at the workplace level within a framework of minimum standards … Over time the safety net would inevitably become simpler. We would have fewer awards, with fewer clauses … We need to find a way of extending the coverage of agreements from being add-ons to awards … to being full substitutes for awards.

The Keating government were unable to deliver a system with workplace agreements at its centre. They buckled under hostile pressure. When elected in 1996, one of the first priorities of the coalition government, which had supported Mr Keating’s initial round of changes, was to seek to give full effect to the model he outlined in 1993. Notwithstanding all their past promises and pronouncements, what then is Labor’s policy on industrial relations? It is to return Australia to the dark days of a rigid, one size fits all industrial relations system. They would discourage enterprise bargaining and effectively abolish individual Australian workplace agreements. Indeed, they would not only roll back the reforms of the Howard government since 1996, but would also undo the enterprise bargaining reforms implemented by the Keating government in 1993. In the words of Mr Keating’s former economics adviser, John Edwards, this platform had the potential to ‘reverse Labor’s own reforms of 1992-94, and to reintroduce the worst aspects of the old award system’.

Of course, the reason for this roll-back is that the ALP are hopelessly beholden to the trade union movement. Little wonder, since they have donated over $47 million to the ALP since 1995-96. At a time when union membership comprises barely 17 per cent of the private sector work force, unions now have more control over the Labor Party than ever before. Of the 86 ALP caucus, 41 are former union officials; of the 32 members of the ALP front bench, 17 are former union officials; and of the 28 ALP senators, 18 are former union officials. Kim Beazley is more beholden to unions than any other Labor leader. Thankfully, the diversity of backgrounds on this side of the Senate ensures we bring a much broader perspective to this debate.

I would like to conclude by saying that as a senator for New South Wales I represent constituents across all of New South Wales. Given the resounding victory of the coalition and, in particular, the increase in our Senate vote in New South Wales, there was a clear endorsement by the people of Australia for the policies of the Howard government. I am confident that the people of New South Wales, including the Illawarra, where my electorate office is based, will continue to enjoy the benefits of the proposed industrial relations reforms in the future.

Senator HURLEY (South Australia) (9.16 pm)—The Workplace Relations Amendment (Work Choices) Bill 2005 represents a radical shift in industrial relations legislation towards individual negotiation. I will first deal with the lack of protection in this legislation for some of our most vulnerable workers. They are not protected and they will be unequally affected by this legislation. I refer to the migrant community, with whom I speak often. English language difficulties force many migrants to Australia into low-skilled jobs, and that includes those people who come in the skilled migration category. Their qualifications may not be recognised sufficiently and their English language skills may take some time to develop. As we all know, many quite skilled migrants
are driving taxis or working in factories. Many find themselves in unskilled jobs, which they need in order to establish themselves in this country. They are very anxious to make a start in this country for themselves and their families. They are very keen to work, to contribute to our country and to get ahead.

What concerns me is that this bill will make it more difficult for that group of people. They will find it extremely difficult to negotiate with employers. This group of people will not be familiar with the laws, practices and culture of Australian workplaces. They will be anxious for a job and they will find it difficult to understand or know the background to all the rules, regulations and options that they have. Many employers will put an agreement in front of them and say, ‘Sign this if you want to get a job.’ Those migrant people with English language difficulties and a limited understanding of their rights will probably sign that agreement without any consultation or advice. There are no protections in this legislation for that group of people.

Many migrants coming to this country, particularly more recent migrants who are refugees, are very wary of authority in any case and would be very reluctant, for example, to take advantage of some of the provisions within the legislation—even if they knew about them—such as taking an unfair dismissal to court on the basis of discrimination. In the past, many of these low-skilled migrants were picked up by unions that did provide that assistance to them. Unions were able to go into the workplace and see what was happening and assist people in that situation to understand the system and to utilise their rights in the workplace.

There is no more telling example of what can happen in the workplace than the situation for outworkers. For those who are not aware, outworkers are those people who are employed, typically in the fashion industry, to work at home. There are an estimated 300,000 migrant outworkers, most of them women sewing at home for as little as $3 to $4 an hour. This Work Choices legislation fails to protect those outworkers. A concerted campaign by unions and others has built up a system under state legislation of providing some protection for these extremely vulnerable workers, most of whom have very limited English and very limited job opportunities. That very clearly illustrates that the government is not at all concerned with protecting vulnerable people in our community.

The main rationale from the government for this seems to be that any job is better than no job at all. I got some information on the experience of the United States, which has a similar philosophy. I have a paper from the Brookings Institute in Washington, which has done several quite extensive research papers on this very issue. Speaking of the experience in the United States, it says:

The welfare reforms of the late 1990s, along with a strong economy and an expansion of work supports for low earners such as the Earned Income Tax Credit, helped reduce welfare rolls and raise employment rates among low-income single mothers. Not only did employment rates rise for these women, their rates of job retention are currently quite high as well.

That is good so far, but the report goes on to say:

But most current or former welfare recipients earn low wages—usually in the range of $7 to $8 per hour. Most of these workers do not receive health and other benefits on the job. Nor do they move up the job ladder very much over time. Thus, most former welfare recipients continue to be poor or near poor, even after entering the labor market, and their prospects for escaping poverty or near-poverty in the foreseeable future seem low.

Again, that is what this government fails to address. I think it is worth going a bit more
into what is meant by ‘low income’ in this United States example. The Brookings Institute report says:

We defined low earners as those who earned less than $12,000 per year (in 2000 dollars) for three consecutive years in the period 1993-95 ...

Later, they go on to say:

... significant earnings improvements—over the wider group—are observed in ... subsequent years ...

At the same time, only about 27 percent of these initially low earners consistently earn above $15,000 by the end of this period—which would be needed ... to lift the earnings of single parents above the poverty line for a family of four. Earnings advances for women appear to be smaller than those of men, and advances for minorities and the foreign-born (especially among men) generally lag behind those observed for native-born whites. Transition rates out of low earnings are also lower among high school dropouts and others with poor skills ...

To me, that seems to be blindingly obvious, but it is obviously not apparent to the government and to the architects of this current legislation. The Brookings Institute says that in order to ensure that people moving out of welfare into work do benefit by that they should not accept the first job possible. This is where the government’s concurrent Welfare to Work legislation contradicts again what they say they are trying to do, because the Welfare to Work legislation virtually forces people into the first job that they get and provides severe penalties if they do not take that job. Of course, there is going to be very intense competition for those jobs and that will drive down wages and conditions so much further than already exists.

There will of course always be lower paid jobs, particularly in lower skilled areas. We will never get away from the fact that some people will be relatively poor compared to others. But I know from my own experience with neighbours in South Australia that women going back into the work force once their children are at school gladly accepted jobs that were the only jobs available. In particular, one woman was working for a mobile lunch van and she was working for two or three hours more than she was paid for. She was responsible for driving the van, making the lunches and collecting and reconciling the money, and any money that she was short was taken out of her meagre wages. She was very stressed and was paid very poorly. We are going to see much more of these kinds of conditions once there are no protections of the awards, the agreements and the enterprise bargaining agreements, and ultimately no protection of the unions.

The government are really making it easier for there to be a wider pool of low-income people in the work force, and they know that is true. That is the intended effect of this legislation. As someone who has spent a great deal of time in regional areas of South Australia—in particular, Port Augusta and the Spencer Gulf cities, as well as the Riverland and Mount Gambier in the southeast—I know only too well that this is going to affect rural and regional areas adversely, because unemployment rates are frequently higher in the country. There are certainly some regional cities in South Australia that are powering ahead and doing very well economically, but, generally speaking, unemployment rates are higher in the country, it is more difficult to change jobs and it is more difficult to get a job.

Many people are moving into semi-rural areas in order to be able to afford the housing that they require for a reasonable quality of life. Some of these people will find that they are very much caught between this Work Choices legislation and the Welfare to Work legislation. They will not have the opportunity to move into the kinds of jobs that have higher wages and they will not have the support of the unions. This will be particularly
so in some of the higher turnover industries, like the tourism industry or other seasonal industries, where employers are not concerned with keeping long-term employees. They are not concerned with ensuring that their employees stay and are happy; they just want to employ them for two or three months and have them move on.

Fortunately, our state government understands some of these realities. Premier Mike Rann has called this current legislation an assault on fairness. He has said that South Australia’s impressive industrial relations record will be threatened if the system is taken over by the Commonwealth. He went on to say:

Nobody in the industrial relations movement, no one in the unions fears change, but what we’re facing from the day after tomorrow is a whole new industrial and political landscape where the hard-won balance that we have here in South Australia could be badly upset.

That includes particularly the rural and regional areas of the state. What we have here is a federal government hell-bent on changing a system. It is a concerted campaign to change the landscape of the industrial relations system, but they are doing it without any safeguards, without any protections, for the most vulnerable in our community.

The Parliamentary Library has produced a paper which compares real wages changes with employment growth. It shows that between 1999 and 2000 real minimum wages increased by 2.9 per cent in Australia, with employment growth of 10.4 per cent. In the United States the minimum wage dropped by 11.8 per cent, with concurrent employment growth of only 2.9 per cent. In the United Kingdom the minimum wage rose by 26.9 per cent, with employment growth of 4.4 per cent. The comment is that jobs growth in the United Kingdom has also been higher than in the US in the past five years, despite very significant rises in the UK minimum wage as part of a concerted campaign against poverty and inequality. That is what is missing when government members talk about the value of the UK experience. They leave out that concerted campaign against poverty and inequality by the Blair Labour government. They have neglected that very important side of the equation. That will lead to great disruption in South Australia, I believe, and will make it difficult for many members of our community.

There is no attempt to eliminate relatively low-wage jobs just to give employees a fair go, to ensure that there is adequate protection. The government has argued that changes are needed. Changes will always be needed as the world moves on—and it certainly is a fast-moving world—but we do not want the kinds of changes talked about in the Australian Chamber of Commerce and Industry report entitled Workplace reform: working for Australian women. I notice that Senator Judith Troeth used the following example as an illustration of how the government wanted the system to work. Page 19 of the report talks about Christina. It says:

Christina is a 28 year old mother of two children aged 11 and 8. She works for a financial institution in Victoria ... Her husband also works on a full time basis in a trade.

This poor woman works from three o’clock in the afternoon to 11 o’clock at night and her husband works till 2 pm. This is an example of flexibility in the work force. ACCI say:

... Christina is able to care for their children every morning, take them to school, and participate in school life whilst maintaining a full time job ... Her husband picks up the children from school each afternoon.

So this poor woman works all night, gets up in the morning to get their kids to school, presumably does all the housework and everything in the meantime, and her husband works during the day and looks after the kids.
at night. The ACCI admit that the couple are not able to afford child care. This is the kind of world that is held up for us by Senator Troeth and others on the government side as an example of how we want our community to work. The example is of two people working full time, unable to pay child care and not seeing each other because they are working in two very different jobs in order to keep their family together. If that is the kind of system that the government wants, I am very sure that I do not want to be part of it. Certainly, changes will be warranted over time, but the government have not taken on the tough changes that we need to make to improve productivity—the changes we need in infrastructure, education, skills development and innovation. The government have wimped out on that. They have chosen to go back to a system that they have been working on for decades which will drive down minimum wages and get rid of unions. It will drive us down to a lower range economy in order to force up productivity by threatening wages that do not allow families a living wage without giving up their holidays, without giving up their public holidays and without working the kinds of hours that the ACCI reckon are a good thing.

That is one of the main reasons that I oppose this legislation. It is using an old system; it is not making the changes that are required for our new world, to meet the global changes. It merely puts off for another time—and, presumably, a new Labor government—the sorts of changes that are being called for by industry in order to boost productivity. Productivity has dropped. The government have recognised this but they choose to blame workers instead of blaming themselves for not keeping up with trends in infrastructure, education and skills development. That is why I will be opposing this legislation at all stages. I hope that there is some government support for this view, particularly from those government members who will see fragmentation of the work force occurring in their rural and regional areas.

Senator MASON (Queensland) (9.35 pm)—I have only three points that I want to make tonight. First of all, I think this debate on the Workplace Relations Amendment (Work Choices) Bill 2005 needs some context and some history. In his book The End of Certainty, Paul Kelly, who is a journalist and editor at large for the Australian, says: The ideas which constitute the Australian Settlement—that is, the principles upon which this nation was founded—though devoid of formal definition, may be summarised under five headings...

He says that these are the five principles on which this country was founded:

- White Australia, Industry Protection, Wage Arbitration, State Paternalism, and Imperial Benevolence...

This framework, he says, was ‘introspective, defensive, dependent’ and ‘is undergoing an irresistible demolition’. And it is. Fortunately, there is no more White Australia. That went in the sixties. Industry protection, tariff protection, has largely gone. As Mr Whitlam rightly said, tariff protection is a tax on the working people of Australia. That has largely gone. State paternalism has changed enormously. Today we talk about mutual obligation and welfare to work. As for imperial benevolence, we certainly no longer rely on the United Kingdom—and, indeed, not even the United States—to the extent that Australia relied on it in 1901. That leaves wage arbitration—the last of the pillars from 1901. It is the last pillar of the time of Edmund Barton and Alfred Deakin. Can that remain? Our argument is: no, it cannot.

Henry Bournes Higgins, who was a Liberal member of parliament, of course, became a High Court judge and the President...
of the Conciliation and Arbitration Court in 1906. In his 1922 publication, *A new province for law and order*, he said:

The following propositions may, I think, be taken to be established in the settlement of minimum wages by the Court:

1. One cannot conceive of industrial peace unless the employee has secured to him wages sufficient for the essentials of human existence.

The essentials of human existence is what they were talking about in 1901. Of course, as you know, the government proposes to leave the minimum wage intact. And then Justice Higgins said—and this really says it all:

The wages cannot be allowed to depend on the profits made by the individual employer, but the profits of which the industry is capable may be taken into account. If the industry is novel, and those who undertake it have to proceed economically, there may be a good case for keeping wages down, but not below the basic wage, which must be sacrosanct.

There was a belief in 1901 or 1906 that judges and lawyers could dictate wages, that somehow it was for lawyers to set wages, not the marketplace. No-one believes that in 2005—100 years later.

That brings me to my second point. It is only a strong economy that will make and save jobs. No system of industrial relations will save a job where the economy will not—not one job will be saved. Where a business is not profitable and cannot employ someone, it will not. If the conditions as set by lawyers are too high, it will not employ or it will sack. At best, a system of industrial relations will slow down or hinder the hiring and firing of staff. It does not make jobs and it does not save jobs. It is the fundamental weakness of the case put forward by the Australian Labor Party for months now in this debate. The line that the Prime Minister has been running for 20 years is right: it is only the economy and the market that will ultimately make and save jobs. There is nothing an industrial relations system can do about that.

We had one of the highest and most regulated industrial relations systems in the world during the Depression. It did not save a job. In the recession we had to have under Mr Keating, did a highly regulated industrial relations system save a job? No, it did not, because it is contrary to market mechanics and market economics. It does not work that way. All this debate about how if we somehow tinker with this industrial relations system we can make for a better world, if the economy is going south, is absolute rubbish. The Australian people deserve much better than that. It is not 1905 anymore. The Australian Labor Party, beholden to the trade union movement as they are, now know that the only thing that will save the workers of this country is increased productivity and a growing economy.

The economy has grown by more than 40 per cent in the last 10 years. That is what has given workers the highest standard of living they have ever had in this country. It is not for one second the industrial relations system. That has not given them one thing more except the level of the minimum wage, or the basic wage, as Justice Higgins called it. That, of course, is a social policy, and I accept that. We all accept that. And he is right: we need a mechanism to solve disputes, and there is the Fair Pay Commission, and I accept that as well. But there is no way you can divorce wage and salary earners from the market economy. It is over; that debate has been won and lost. Those who say that we can divorce industrial relations from the market economy are living in the 19th or early 20th century. That debate is finished. If you had to summarise the overall weakness in the Labor Party case, it is their absolute failing to understand that only a strong economy will make and save jobs and that you cannot se-
quester the Australian workforce from the market, particularly in an era of low tariffs and deregulation.

The third point that I want to make this evening is the declining relevance of trade unions. My friends across the way will say, ‘Senator Mason is being particularly partisan, as always.’ But I am not really being partisan this time; it is rather more a reflection. When I was growing up in the 1970s, the trade union movement had a far more significant and critical role in Australia’s social, cultural and economic life.

Senator McGauran—Bob Hawke, cultural?

Senator MASON—Mr Hawke and Mr Monk were both large figures in this country. Their successors have not been such large figures; in fact, nowhere near it. The statistics tell some of the story, but not all of it. Let me go to the statistics for a second. The Hon. John Button, the former leader of the Labor Party in the Senate and a distinguished cabinet minister, in his famous Quarterly Essay article ‘Beyond belief’ said—and this nearly says it all:

In August 2001 unions made up less than 25 per cent of the total workforce—

it is even less now—

and only 19.2 per cent of the private sector workforce. (Compare this to 1978—

when I was growing up—

when union membership made up 57 per cent of the workforce.)

It has declined by nearly two-thirds.

You have to understand that this debate is not about the Australian Labor Party believing that the industrial relations legislation will save jobs. This is not about that, because not even the Labor Party believe that any form of workplace relations legislation will save jobs. This is about saving their bacon and the cultural, social and economic relevance of an organisational framework that is declining in Australian social life. That is a fact. It is a sad fact, perhaps, but it is—

Senator Forshaw interjecting—

Senator MASON—Senator Forshaw, it is a fact. Mr Button goes on to say:

Unions affiliated with the Australian Labor Party represent less than 15 per cent of the workforce.

And it is even less today. Unions affiliated with the Australian Labor Party represent less than 15 per cent workforce. That is about one in seven Australian workers—that is who the Australian Labor Party represent. And they claim to represent the Australian working people. It is a fraudulent claim. Mr Button goes on to say:

The past twenty-five years have seen no new union affiliations to the ALP in technical and professional areas. Membership of unions in the growth sectors of the economy—information technology, telecommunications, electronics, biotechnology and financial and business services—is low, sometimes tiny...

Unions have also been sidelined by the huge growth in services provided by contractors, ranging from lawn mowing and house cleaning to highly skilled technical assistance.

That is the cultural and economic change that has happened in this country since I was growing up—since I was a teenager. That is what has changed. The shape of the economy and of Australian social life has changed enormously. Trade unions simply are not as relevant. In fact, of course, there are more Australians with ABNs than there are members of Australian trade unions. Doesn’t that just say it all? Mr Latham reveals that people in Green Valley read the market wrap. This idea that somehow you can divorce outcomes for Australian workers from the economy is rubbish.

I mentioned Mark Latham. Let me quote another word from the book of Mark. On page 188 he says:
... they (the unions) hate the idea of people being owners not workers.

You see, the world has changed. It is not workers versus bosses anymore. Most of the former workers, or many of them, have their own businesses and realise there has to be a business partnership—that you simply cannot have an antagonistic relationship at all times, because that simply does not work. According to Mr Button—and this is the real nub of the change in social context—this is what has happened. He says:

Unions, of course, have had a long involvement in politics. They started the ALP and once dominated party conferences with numbers and ideas. They pumped their best-qualified members into parliament, often from self-educated and politically motivated rank and file members. Now it is the other way around. ALP factions try to capture the allegiance of unions to advance the interests of a breed of Labor professionals. These professionals do not come from the rank and file of union members, and so a gap widens between the leadership of the union and its members. Too often the members switch off politics as a result, to the long-term detriment of the ALP.

Increasingly, trade unions are the playthings of ambitious Labor politicians, and the Labor Party a severely compromised organisation tying itself to representing a dwindling proportion of Australia’s work force. Now that is the point. In this unfortunate embrace, unions and the Labor Party are strangling each other to death. The shackles of 100 years ago must be broken for the Labor Party’s own good. Do not believe me—remember the Rt Hon. Tony Blair. He knew it had to be done. I should not be saying this, colleagues, because this is good advice. The day the formal links are broken between the Australian Labor Party and the Australian trade union movement will be the day the Australian Labor Party enjoys a renaissance. Representing as they do at the moment less than one in seven members of the Australian work force is pathetic, and it is a fraud to suggest that somehow they are the party of the Australian work force.

In summary, I have three points. Firstly, the federation pillars have crumbled and wage arbitration and the form it takes must and will reform. And there is nothing the Labor Party, whether or not this bill gets through, can do to change that. Secondly, it is the economy and not industrial relations legislation that makes and that saves jobs. You cannot divorce the workplace from the economy, full stop. And finally, the declining social, cultural and economic relevance of trade unions is a fact. Perhaps it is a sad fact. But if the Labor Party do not come to terms with it their relevance, certainly to the working people of Australia, is finished.

Senator FORSHAW (New South Wales) (9.50 pm)—I always enjoy following Senator Mason because he gives you so much material to respond to. The problem tonight, as usual, is that I do not have the time. I will leave it for another occasion.

The Workplace Relations Amendment (Work Choices) Bill 2005 is 687 pages long. It is an amendment to an existing act, but it is actually longer than the existing act. The explanatory memorandum is 565 pages long. It is an extensive and complex document and it needs a lot of study and explanation. But it has one overall purpose. That purpose was outlined by the current Prime Minister back in 1992. He was then the shadow minister for industrial relations in the failed Hewson coalition. On the occasion of the launch of the coalition’s industrial relations policy on Tuesday, 20 October 1992—this was Fightback, remember—he was speaking about their policy on minimum conditions. He said:

The first of those will be a minimum hourly rate of pay, calculated by reference to what otherwise would have been the award minimum if the person in question had remained within the award. And it is very important that I emphasise that it will be an hourly rate of pay. That carries with it
an enormous change under this policy. What it means is that the policy is effectively abolishing the concept of a fixed working week. What it means is that the length of the working week, and whether somebody is paid penalty rates, or holiday loadings, that all of those things will become, if people go into workplace agreements, will become matters of negotiation.

He went on:

... as I’ve gone around Australia, as has John—and he is referring to John Hewson—talking about this policy that if we really want to modernise the Australian economy, if we really want to internationalise the work practices of Australia, if we really want to make the Australian workplace competitive with the rest of the world we have to embrace a very important principle, and that is if somebody makes a capital investment in this country they ought to be able to run that capital investment 24 hours a day, seven days a week, 365 days a year without penalty as to the time of the day or night they run that investment.

It has been the PM’s dream for years and years to wind back the current industrial award system, diminish the role of the Industrial Relations Commission, reduce the role of trade unions in representing workers and remove longstanding award entitlements such as guaranteed wage rates, classification structures and standardised hours of work. It has been the dream of John Howard to abolish penalty rates and remove leave and leave loading provisions in awards. It has been John Howard’s dream to get rid of allowances and the right to seek redress for an unfair dismissal. They are just a few of the elements of this dream. Unfortunately, the Prime Minister looks set to achieve it as the government now has the numbers in the Senate. All of the posturing of Senator Joyce and a few others will come to naught, I predict. But the PM’s dream will become a complex nightmare for many workers and their families.

Other speakers have identified many of the specific measures contained in the bill which will impact most severely on employees and their families. Hopefully, we will get a chance through the committee stage to do that in more detail. But I just want to focus on a couple of those before turning to the spurious reasons that are advanced by the government, government senators and their supporters, most noticeably the ACCI and the Business Council of Australia. I will just name a few of the significant effects of this legislation. As we know, awards will only be allowed to include five matters. Senator Mason talked a moment ago about five principles. Awards will only be allowed to run that capital investment 24 hours a day, seven days a week, 365 days a year without penalty as to the time of the day or night they run that investment.

Penalty rates, of course, are not just a loading for employees who work beyond the normal working week or the normal working hours prescribed in a day. They are also and have always been intended as a deterrent to employers from working their employees excessively long hours without any break. Under this legislation, you will no longer be able to prescribe a penalty rate in an award. As to hours of work, the government has waxed lyrical that it will prescribe a standard 38-hour week, something that is prescribed in most awards in this country. But, of course, we know that the 38-hour week under this government’s proposals can have
effectively no beginning and no end because it can be averaged over an extended time. Originally, the government’s proposal was that it could be averaged over a year.

Method of payment is a simple thing, people might say, but it is very important. There will no longer be any guarantee of how an employee must be paid his or her wages, salaries and entitlements. People currently paid weekly or fortnightly as a prescribed condition in an award may find their payments changed to monthly or longer without notice or consent. There is no requirement for consistency. Imagine the impact upon an employee and his family if they find that they go from fortnightly pay to monthly pay. They have to look at the budget because many people these days have automatic deductions from their bank accounts to pay their interest bills and whatever other repayments they may have. What is to stop an employer changing it again? The employer might think: ‘The cash flow’s a bit short this month. I won’t worry too much about accessing the overdraft—I’ll just pay the employees in a couple more weeks’ time or another month’s time.’ The removal of that prescription in an award removes that entitlement, which is guaranteed at the moment.

I could go on and on, but time does not permit me tonight. When this government and this Prime Minister argue that these changes are just about bringing in flexibility and modernising the award system, that is a nonsense. This is not reform. You do not reform a system by removing entitlements in awards. You do not reform a system by undermining the industrial legal system and structures of this country. That is not reform; that is bastardisation. That is what it is.

The government uses all sorts of Liberal wordspeak to try and justify this legislation. It speaks about providing choice. But when the Prime Minister was shadow minister for industrial relations in 1992 he was not talking about choice. He was talking about a brave new world and his vision, his dream of the 365-day year with 24-hour, around-the-clock operation and employees having to cop what was given to them or what was prescribed for them. That was not choice, and this is not choice. The government speaks of flexibility. It claims that these changes will lead to higher productivity, increased employment and higher wages, but there is no empirical evidence at all for these claims. It is merely a series of repeated statements; it is rhetoric. It is a constant mantra that we will see increased productivity and increased employment.

In the great liberal tradition, as John Faulkner so eloquently put it tonight in his remarks, the principle of liberalism is to protect the rights of the individual. That is what John Stuart Mill was on about. That is what Gladstone and others were on about. That is not what Mr Howard is on about at all. The irony here is that individuals—the people that this Liberal Party has said it was founded to represent—will be left largely to themselves, without adequate support or protection, in an uneven contractual relationship.

A moment ago Senator Mason talked about the industrial award system and said that the industrial relations system had not delivered any of the great advances in this country. He should go back and read his history. That is unprofessional and unacademic coming from Senator Mason. He also misunderstands the situation. He misunderstands the purpose of the industrial award system and of the Industrial Relations Commission. It is about protection. Its role has been to conciliate, arbitrate and protect. That is what the law is about. The law ultimately exists—and this is industrial law—to protect people, to protect individuals. When you remove
laws, when you wipe them out, as you are doing by stripping the awards back and by taking away the right of the Industrial Relations Commission to determine the national wage increase, you are removing their rights. So, as I said, the claims that have been made are false; they are mere rhetoric.

When the Prime Minister has been asked to give a guarantee that no worker will be worse off, he has responded that he stands on his record. But what is that record? As we know, since 1996, when this government was elected, it has followed the tradition of the Fraser-Howard government to oppose in the Industrial Relations Commission the increase sought in every single national wage application. Not only that, it has actually opposed the increases that have ultimately been awarded. On not one occasion has the Howard government ever made a submission to the national wage bench where the level of the increase that it said should be awarded to workers has matched what the commission has ultimately awarded. The commission has always awarded more and, as we know, if the government submissions had been adopted on every one of those occasions, workers today would be $50 per week less well off on their minimum rate of pay. So when this government boasts about how it has presided over a 12 per cent wage increase across the Australian workforce, it misrepresents the truth. It has not presided over that. It has not delivered that at all. It has opposed those sorts of increases for workers. But now it claims the credit, because the commission had the temerity to disagree with the government and award more.

I heard Senator McGauran earlier this evening in his entertaining but tortuous remarks refer to the great work done by the NFF in revolutionising the system of industrial relations in this country. I remember those times pretty well. I was pretty deeply involved as the secretary of the AWU. Do you know what the NFF used to do? They used to go to the national wage commission and argue that rural workers should not receive an increase. They did it on four occasions. They said that farmers could not afford to pay it. It did not matter which rural industry they were in, they said that no farmer in Australia could afford to pay a minimum wage increase for station hands, shearers and so on. They lost every time, but it was a device that let them delay the case for months and months, and in that industry it was impossible to get a retrospective application because of the casual and itinerant nature of that work. That is how they denied workers in rural industries the legitimate national wage increase that they should have got.

What else did the NFF do? They hired a gun barrister, famous for Mudginberri, Mr Costello, to go into the Industrial Relations Commission and argue that rural workers should not receive superannuation. I know this because I was the advocate for the union. Fortunately, Mr Costello did not win. But that is what the NFF did. They said, ‘Rural workers are not entitled to superannuation.’ But they also said, ‘Mr Commissioner, if you think rural workers should get superannuation, despite the NFF submission, it should only be paid to rural workers who work for at least a five-week period with one employer.’ This of course ruled out just about every rural worker in the country, particularly shearers, who move from employer to employer. Fortunately, they did not win that case either. But that was the sort of thing that the NFF stood for. Of course, now they are out there championing this legislation. Why? Because it gives them another opportunity to strip back the minimum entitlements that these workers receive.

Senator McGauran talks about what is happening in France and some sort of socialist moribund system they have over there that is causing economic problems. I remind
Senator McGauran that the major problem in France is that the economy and the system there are based upon protection for the farmers. It is the farmers in France who will not agree to economic reform—and you know it. In France, the equivalent of the NFF is the major problem in terms of restructuring the economy and doing something about getting rid of those subsidies that are paid to the farmers. So do not lecture us about a moribund system.

As I said earlier in the debate, there are many industries where flexibility already exists. The rural industries, the mining industry and the retail industry all have flexibility in hours of work and so on—and, Mr Acting Deputy President Marshall, you referred to how salaries can be annualised et cetera. But of course it is all based upon a system which ensures that employees are not disadvantaged when it comes to rates of pay, entitlements et cetera and that penalty rates, for example, are built into the hourly rate. That is not what this government is proposing.

Finally, I will turn to the use of the corporations power, section 51(xx). The government is using, pretty much for the first time, the corporations power under the Constitution to justify this legislation and, in so doing, is effectively dismantling the state systems. If the government is so intent upon using the corporations power to get rid of awards and regulate the wages and working conditions—and thereby reduce them—of employees in this country, why doesn’t it use the corporations power to do something about the corporations themselves? Why doesn’t it use the corporations power to do something about James Hardie? The victims of the James Hardie are being assisted by the union movement. I do not see the federal government coming to their assistance—and it has the power to do it.

A recent survey on the salaries of chief executives revealed that the head of Macquarie Bank gets $18½ million a year, the head of Leighton gets $12 million and the head of Rio Tinto gets $6 million. Why doesn’t the government do something about the excesses that exist in the corporate world, where high-priced CEOs, all members of the Business Council of Australia, are paid huge amounts even when they fail to run a company profitably? Why doesn’t the government use the corporations power to do something about that? But of course it will not.

(Time expired)

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Trade) (10.10 pm)—I am pleased to make a contribution to the debate on the Workplace Relations Amendment (Work Choices) Bill 2005 and to follow my friend opposite, Senator Forshaw. I felt that his heart was not really in it tonight. Perhaps it was the same speech he made in 1995 and 1996. I am delighted to be reminded—I had forgotten—that Senator Forshaw was in the AWU. Perhaps he was secretary at the time of the wide-comb dispute. That was the time when the AWU created a situation where Australian shearers voted with their feet. The AWU told the shearing industry that they were not permitted to use the wide-comb. This was a tool of productivity. The AWU said that it was not available to them. These very hard-working Australians scratched their heads and said, ‘You blokes want to be in the real world.’

The result of that action by the AWU in the early 1990s meant the end of the closed shop—which was a fantastic result. The traditional bullying aspects of the AWU organiser coming into the shed uninvited ceased to occur. The closed shop finished, which has resulted in the AWU having very few, if any,
members in the shearing industry at this time. The shearers voted with their feet because they could see that the representation of their standards and their aims were not presented by their union.

The Workplace Relations Amendment (Work Choices) Bill 2005 is another step in our economic infrastructure to set Australia and Australians up for the future in a globalised and competitive world. It is about fairness and choice in the workplace and it is about balancing the interests of both employers and employees. It is not anti-union and it is not pro-employer; it is very much pro-Australia. Australia, with its 20 million people, is the 12th biggest economy in the world. The economies of Australia and New Zealand combined are near equal to that of our 10 ASEAN neighbours in the north—one of them, of course, being Indonesia, with 223 million people. All Australians should be very proud of those statistics.

Australia is a regional superpower in many respects—be it in energy, in agriculture or in services. This is largely due to the productivity and ingenuity of Australian workers and employees. No government can invent the economic future. It takes partnerships between government and the workforce and between government and leadership right throughout the community. It is a journey together. Government can put in place the infrastructure and provide a tax system that works, an infrastructure that works, a waterfront that works and a welfare system that is fair to all but, at the end of day, it is the partnership between government and the community from which it can extract the very best effort for the great majority of its citizens.

I would like to see Australia in the top 10 economies of the world, and I think that can be done. It is not an unrealistic expectation, but what will it take? It will take a further strengthening of our economy through increased productivity, the creation of more jobs and the associated decrease in unemployment, and a continuation of low interest rates and low inflation. These things have not happened through chance; they have happened through cooperation in the workplace. The Australian government have been strengthening our economy for 10 years now and will continue to do so in the future. We are governing for all Australians, both employers and employees. The Labor Party claims to represent average wage-earners, but it only represents the ever-increasing irrelevancy of the Australian union movement.

It has already been pointed out tonight that union membership in this country was 51 per cent of the work force in 1976, in 1990 it was 40.5 per cent and in 2004 it was down to 22.7 per cent and only 17.4 per cent of the private sector were members. The union member movement has lost its relevance and part of its continuing decline is the position that their paid-up representatives in this place have taken on reforms in the Australia economy. Each time the ALP cries wolf and predicts doom and gloom or that the sun will not come up tomorrow, the more average Australian workers, and potential union members, realise that the ALP is no longer a captive of the real economic world that Australia finds itself in through prudent economic management.

This government’s record is something of which we can be very proud. Not just the government but also the whole community can be proud of it. The government’s previous workplace relations reforms have helped deliver higher wages, higher productivity, more jobs and lower interest rates. Ultimately, the best protection for workers, and the best guarantee of job security and higher wages, is a strong economy. A modern workplace relations system is an essential compo-
nent. I think it is absolutely true what the Rt Hon. Tony Blair said—that fairness in the workplace begins with a job. The heavily regulated workplace relations systems in the 1980s failed to protect one million Australians from being thrown onto the unemployment scrap heap. We will always remember Mr Keating’s unemployment record when it reached over 11 per cent.

In our time in government, we have created 1.7 million new jobs since March 1996. Incredibly, 900,000 of those have been full-time, there have also been 800,000 part-time. In contrast, between March 1989 and March 1996, there were only 188,000 new jobs created by our political opponents and 519,000 part-time jobs. Unemployment is presently at 5.1 per cent. In the past 12 months it has consistently been at a 30-year low. When Kim Beazley was employment minister, unemployment reached a post-war peak of 10.9 per cent.

Real wages have increased by 14.9 per cent since 1996, compared to 1.2 per cent under 13 years of Labor. During the period of the much heralded accord, the deliberate policy of the ALP and the ACTU was to suppress wage growth and reduce the minimum wage. Only this year Kim Beazley boasted that:

We achieved 13 years of wage restraint under the accord. The wage share of GDP came down from 60.1 per cent when we took office to the lowest it had been since 1968. We left office with the wage share of GDP at 55.3 per cent.

The minimum wage declined by around five per cent in real terms between 1983 and 1996 under Labor.

I will now turn to industrial disputes. Under the coalition government, industrial disputes have consistently remained at the lowest level of strikes since records were first kept in 1913. In 2004 the level of industrial disputes was 45.5 working days lost per 1,000 employees. The yearly average rate of disputes in the 13 years of Labor was 192 working days lost for every 1,000 employees—nearly five times as much. In 1993, at the height of the system of compulsory arbitration and unions power favoured by the Labor Party, and to which its policy would return us, the rate of industrial disputes was 1,273 working days lost per 1,000 employees. That is not a very good record to take to the Australian people, and I think the Australian people judge the Labor Party on those figures.

In 1996, in the first round of industrial reforms when the workplace relations system was last updated, the same predictions of doom and gloom were spouted by Labor and unions. I have to make the point that in question time over the last couple of weeks there have been more questions to Senator Abetz relating to Welfare to Work and on IR than there have been to the respective ministers in the House of Representatives. In the case of Welfare to Work, Minister Dutton in the House of Representatives has taken fewer questions than Senator Abetz and, certainly, Minister Andrews, the Minister for Employment and Workplace Relations, has taken fewer questions than Senator Abetz. These questions from the ALP, and speeches to be sent to their union secretaries, are window dressing. It is a show of just how hard they are working and how diligent they are being on their behalf in the Senate. I can think of no other reason for it.

I want to turn to some of the comments and speeches that were made in 1996 in the first round of industrial relations reform. It is like deja vu. I will first mention my friend Senator Forshaw who preceded me tonight.

This is why I thought that his speech was a rerun of 1996 when he said:

The Workplace Relations and Other Legislation Amendment Bill 1996 is a draconian piece of legislation ... this legislation attacks the very core
of a system of regulation of wages and working conditions and the settlement of industrial disputes that has underpinned our great democratic society for almost 100 years.

He could have said that tonight. He went on to say:

The government says that its legislation is designed to promote employment and reduce unemployment.

It has. He then said:

But there is simply no evidence that this type of legislation will achieve these objectives.

Acting Deputy President Forshaw, I know you are in the chair now, but you are wrong. He went on to say:

... once you remove the protections that exist in awards, as this legislation does, it will lead you very quickly to a position where employees will be worse off and will lose take-home pay.

I do not think that is right. Senator Bishop, another senator who I respect a great deal, said this in 1996:

The bill before the Senate today will result in lower wages and conditions in a range of industries.

That has not happened. He went on:

All this bill offers Australians is a 19th century industrial relations agenda in a 21st century world. The legislation should seek to provide security for the future, not turn the clock back to the insecurities of the past.

It did not.

I will finish with some of the comments of Senator Carr. He said:

... we see this bill as being obnoxious, insidious and fundamentally hostile to the interests of working people in this country. We see it as fundamentally opposed to the maintenance of living standards for working people in this country and as a device ...

Senator Boswell—Who is this?

Senator SANDY MACDONALD—This is Senator Carr. He went on:

... aimed at redistributing wealth and power towards people who are already extremely well positioned within our society.

The only think that I think would be obnoxious, insidious and fundamentally hostile to the interests of average Australian workers is having Senator Carr represent them. In fact, the thought of Senator Carr being in government and on this side of the house is a very grim thought. The Australians who I know out there would think exactly the same way as I do.

Senator Lundy—You have no argument so you resort to personal attacks.

Senator SANDY MACDONALD—None of these things have happened. In contrast, the coalition has helped create more than 1.7 million jobs. It has increased real wages by 15 per cent, Senator Lundy. It has achieved the lowest unemployment in three decades. It has also seen the lowest level of industrial disputes since the bargaining at the beginning of last century. Hearing these sorts of figures and this sort of record must be like eating crow for our political opponents. It must really stick in their craw. They are a party that says that they can represent the interests of average Australian workers, and we are the people who have delivered. That is because we had the right policies and because we are interested in governing for all Australians.

Labor has no alternative to bring the workplace relations system into the 21st century. In fact, all they have said is that they would rip the legislation up if they got into power. So what does Labor stand for? Mr Beazley is loath to say that he would roll back this particular legislation—he used that phrase terribly effectively with the GST. This is the first opposition to suffer from reform fatigue before ever getting into government. They are reform fatigued. They have been 10 years thinking about possible proposals and
changes to make this country a better place and they have not got any. They have no ideas. They wonder why they are not in government—they have not earned the right to be in government. I am not saying that they may not in the future; I expect that they may at some stage, but it will be a little while. We have not seen any sign or any form—

_Senator Boswell interjecting—_

**The ACTING DEPUTY PRESIDENT (Senator Forshaw)**—Order! Senator Boswell, you are interjecting and you are not in your seat. Cease interjecting, and bear in mind that you are not sitting in your own seat.

_Senator SANDY MACDONALD_—Thank you for your support, Mr Acting Deputy President. The interjections were worrying me greatly. I have in the past mentioned my time dealing with the AWU. I had a very good relationship with them, I have to say, as you might expect. I am an employer and like most other employers out there I want my employees to be happy, healthy and properly paid and as productive as they can be. Almost all business owners, employers and companies worth their salt would have the same views as I do. If they do not, in this time of record employment the employee will go down the road to another employer.

This is a time of very high employment. In my city of Tamworth, for the first time in my memory even people with very limited skills have jobs available to them. In fact, we have almost full employment in Tamworth. There are jobs on A-frames in Peel Street in Tamworth. Today, they are advertising for people with very limited skills to come and get a job. It is a very exciting time and an exciting opportunity. The Work Choices legislation allows for this mutual respect between an employer and an employee to be strengthened.

Unfortunately, the unions have attempted to scare people into thinking that as soon as this legislation passes Australian bosses will suddenly change and they will be systematically exploited. What an insult to the average Australian. The majority of voters believe that the Australian government has done a good job over the last 10 years. The Prime Minister and the Treasurer have looked after this economy. Our interest rates are down. Economic growth is strong. Exports hit a record last year of $162 billion.

Why, then, would the Prime Minister risk these tremendous outcomes for Australia? The answer is simply that he and the government would not. Our economy is strong and our work force is strong. Do people really believe that the government would put that in jeopardy and risk mass sackings and decreased working conditions and productivity? That is what the Labor Party predict will happen somehow. They predicted doom and gloom in 1996 and it has not happened, and it will not happen on this occasion. Actions always speak louder than words, and the government’s record speaks for itself.

Work Choices will also move towards one simpler national workplace relations system, cutting back on the 130 different pieces of industrial legislation, the 4,000 awards and six different workplace relations systems operating in different states and territories across Australia. This will result in less confusion, less red tape and less complexity—something that I believe everybody would want. We have heard from the many coalition senators before me that Work Choices will protect the interests of working Australians. I want to reinforce that the minimum wages will be protected and set by the Australian Fair Pay Commission, which will make it impossible for minimum wages to fall below the rates determined by the 2005 safety net. Minimum wages will be adjusted upwards by the AFPC. Unions will still exist...
and will be allowed to become a bargaining agent for an employee in the Australian workplace agreement negotiations. Unions will also be allowed to access workplaces, but under Work Choices this must be at the request of the employee.

Let me also reinforce that the unlawful dismissal laws will still protect employees from unlawful termination. Workers will not be able to be sacked due to absence from work, illness or injury, because of union membership, for taking part in union activities, for refusing to sign an AWA, or for their race, colour, sexual preference, age, marital status, family responsibility or pregnancy. However, with regard to the unfair dismissal laws, the Australian government will provide a better balance for small business and employers. For too long small businesses have been put off employing more staff because of the costly and sometimes biased processes of unfair dismissal claims. These reforms will do much for small business caught up in the red tape associated with sometimes unreasonable unfair dismissal claims.

I believe in what the coalition government under the power of John Howard and John Anderson, and now of course Mark Vaile, have done for Australia. We are blessed to live and work in this lucky country. The government have contributed to that by increasing the work force, increasing wages, lowering taxes and stabilising interest rates at a much lower level than the Labor government before us. We ask the doubters and scaremongers to look at our record, which clearly speaks for itself. Let the government get on with the job we were elected to do as recently as last year: improving the economy for the benefit of all Australians. (Time expired)

Senator LUNDY (Australian Capital Territory) (10.31 pm)—Upon being elected to the Australian Senate I never imagined that I would have to debate and defend the laws that constitute the very heart of the Australian ethos and the fabric of our society. Far from the flippant disregard for the social impact expressed by those opposite, the fair go, standing up for your mates, being fair dinkum and cheering on the underdog are all popular cultural expressions of our values. And they are at risk. Whilst these words have come to illustrate the stereotypical Aussie, they are values shared by most of the world’s diverse communities, so it is no wonder Australians are so comfortably multicultural. These values represent fairness, honesty, dignity, empathy and compassion.

The problem the Howard government has is that these values are all codified in our industrial relations system, the system the Prime Minister is now seeking to destroy. It is no wonder that people are unhappy. Many years ago a freshly federated Australian nation saw these values given life in a system for managing fairness in the world of work. Through the original Conciliation and Arbitration Act of 1904 the members of the first parliament of this country codified the application of fairness, honesty, dignity, empathy and compassion for working people. The system provided both employers and employees with a methodology to resolve disputes, a robust system for addressing the inevitable and ongoing tension between the interests of employers and employees. It also provided protection for those who were vulnerable.

It should also be said that this system of industrial or workplace relations had a far wider effect than just on work. It was, and is, about both individual and collective opportunities within communities, towns and the nation. It is about self-esteem, safety and health. It is about relationships and birth rates. It is about pride and dignity and even about prejudice. Over the years this system has been morphed and moulded to suit the times and the economic priorities of various
governments. But all have either conceded or celebrated the wisdom of having such a system of industrial relations, of having that independent umpire.

That is, until now. Until now the extremist views of the far right of the Liberal Party have been marginalised and contained. This has occurred either by the Liberal Party itself keeping these extremists in a minority or the Senate keeping the coalition government in a minority. In July 2005 this all changed. When the coalition government led by Prime Minister Howard took control Australia was faced with a big political first: a majority in the Senate by a party in which the majority holds extremely right-wing views. So extreme are the views of this Liberal-National coalition government and so willing are they to exploit the majority in the Senate that for the first time the uniquely Australian system of managing fairness in the workplace is going to be destroyed.

These changes we are now debating represent a direct attack on the ability of working people to obtain a fair day’s pay for a fair day’s work. No longer will the needs and interests of the employee be a factor in the setting of wages and conditions. No longer will an independent umpire arbitrate on wage rises and disputes. The use of individual contracts and Australian workplace agreements, or AWAs, will ensure that all the power in a negotiation between an employer and employee or even a potential employee is in the hands of the employer. No longer will individual contracts or AWAs be merely an option where an award or collective agreement exists. These proposals have been constructed so that these individual agreements will be mandated by attrition. In other words, the Howard government is dictating that individual contracts will be the way contracts of employment are determined in the future. This is an authoritarian approach that offends even the most basic concepts of democracy.

It does not even serve the interests of individuals. It sets worker against worker. These changes we are debating attack the principle of standing up for your mates, and every effort is being made by the Prime Minister to prevent working people from joining together to look after one another.

From the Prime Minister’s perspective, collective activity is the enemy as it not only allows working people to stand up for themselves but, if their organisation is strong enough, can help other working people who are not able to be collectively active achieve a better result. This is why the unions have come in for such a bashing by the Howard government. Unions are created by collective activity of working people. Unions are the product of the collective conscience of people striving for fairness and looking after the underdog. When the Liberal Party attack unions they are doing far more than performing a well-worn ritual of class warfare. They are attacking the principles of fairness and dignity. They are attacking the Australian values of a fair go for all, standing up for your mates and looking out for those in need.

These changes also undermine any remaining skerrick of credibility this government may have had in representing the battler. What could be more dishonest than calling these extreme changes ‘work choices’ and then spending over $50 million misleading the Australian public about their true implications? Every time one of these taxpayer funded Howard government ads is seen on TV it should be a reminder of the deception and lies. There are few real choices for any party in this legislation. There are none for employees—and I will come to that. But even employers who have been duped into thinking these changes will benefit them or their business need to take a closer look.

I have watched how some of the ideologically motivated employer organisations have
pushed and promoted these changes with predictable monotony, funding their own ads. I have watched with interest as the small business employer groups fall lazily into line without so much as a synapse firing to connect the changes with a rise in some serious social and economic problems. These problems for business include increased red tape, hostility in their human resources department, division and distrust among their workforce, and employer discomfort because they have to create hardship.

For many employers, the glib rhetoric of increased flexibility means, in reality, imposing longer and/or erratic working hours upon their employees. Increased efficiency means paying less for holidays and overtime and restricting or preventing leave, which cause their employees personal and financial distress. For employers in dangerous sectors these changes mean losing the practical function of employees and unions improving safety and enforcing standards—not to mention the goodwill of the workers in achieving better safety and health. I know that many employers are not happy with this prospect. They know who does the work on safety.

According to the Sensis business index survey released today, support from small to medium business is going backwards, with as many as one in 10 now feeling that the IR changes proposed by the Howard government will have a negative impact on their business. Report author Christena Singh said that 26 per cent of businesses believe the changes have gone too far and are scared and confused about the potential impact these laws will have on their working relationships with staff who, with good reason, have become insecure about their future employment.

But employers are naive if they think they can continue as they are. Under these changes, the more an employer wants to keep things the same the greater the administrative and cost burden they will endure, and the smaller the business the greater this burden. Does this sound familiar? Small business has no friend in the Howard government. In addition, under legislation passed previously that targeted building unions, such as the Building and Construction Industry Improvement Act, actual financial penalties are levied at employers who try to work with unions or look after their employees. This is the authoritarian nature of these changes. Good employers and well-intentioned employers will have no choice but to offend the dignity of their employees and deprive them of hard fought for conditions.

It is this impact on employees that I turn to now. I have reflected on the dilemmas confronting some employers with consciences, but this is nothing compared to the pain, humiliation and harm that many working people will suffer as this new authoritarian regime of industrial relations spreads through their workplaces like a cancer. I learnt my politics as a labourer from life and work on building sites. I became a unionist and later a member of the Labor Party as a direct result of this experience. I know what it is like to rely on overtime penalty rates to pay my debts. I know how incomprehensible it would have been for me as a 16-year-old to negotiate my rates and conditions, and I was probably at the confident end of the spectrum.

Just whose kids does Mr Howard think will be well served by this legislation? I do not think his own kids will ever have to endure it, but I feel for all the young people who do not have a hope of securing a fair wage under an individual contract regime. This is the reality that many of them face. I also know what it is like to argue with an employer to have the right to protect myself from substances like asbestos. My job was to
remove the stuff. It was the most gobsmacking experience to go to that workplace and have to fight for respiratory protection—and they knew it caused cancer. What is going on in this world when this happens today and every day? That is the role that unions have, to organise the workers to protect basic, commonsense safety. And that experience is why I am in the Senate now.

This is the reality for many employees, as all workplaces have their hazards. Safety is one of the most basic rights and it requires constant and diligent attention. I have reflected many times in this chamber on the constant vigil needed—and only unions can provide it. I know the routine, because after labouring I spent close to 10 years supporting workers and delegates in making their workplaces safer. It does not happen by itself. So to dismantle union organisation specifically increases the risk of injury and death.

It is true that companies benefit directly from this diligence to safety through improved productivity and higher morale. The safest sites are invariably the most productive. Contrary to the ridiculous Liberal rhetoric we have heard throughout this debate, the most productive sites are the ones with the most effective union organisation, including delegates dedicated to safety and quick dispute resolution. It is a tragedy that the blind ideology of the Howard government’s IR changes will deny workers the power of this collective action to defend safety standards. This can only result in more deaths and injuries. The statistics do not lie. There will be blood on the hands of those who vote for these bills.

I recently visited a site in Canberra where a number of building workers expressed their fears about the changes. Not only did these strong unionists defend their hard-won conditions and express their pride in having helped secure many improvements for the next generation, they spoke of the personal impact on family life.

Senator Ian Campbell—Acting Deputy President, I raise a point of order. I seek your ruling on whether it is in compliance with standing orders to imply that someone who votes for this bill will have blood on their hands. It seems to me to be a highly inflammatory thing, a reflection on senators and a form of intimidation on senators who may be asked to vote on the bill shortly.

The ACTING DEPUTY PRESIDENT (Senator Moore)—On the point of order, there have been many comments along those lines from both sides of the chamber during this debate. I do not accept that particular statement. I do not think there is a point of order but I will check with the Clerk. On advice, Senator Lundy, it has been suggested that you rephrase your comment without quite the same attribution.

Senator LUNDY—Certainly. I do not mean to intimidate anyone opposite other than to make the point that I believe there will be an increase in death and injury without unionisation, on building sites in particular.

Senator LUNDY—Certainly. I do not mean to intimidate anyone opposite other than to make the point that I believe there will be an increase in death and injury without unionisation, on building sites in particular.

The ACTING DEPUTY PRESIDENT—Thank you, Senator Lundy. I think that is appropriate.

Senator LUNDY—I knew quite a few people on the site I visited and many of them were there when the union rallied to achieve industrial superannuation and transportable long service leave. Many of these workers were there when they won the right to something as prosaic as the right to wear hearing protection. They were there when they won the right to have a drink and snack mid-morning and they were there when they fought for a chair and a table to have it at. They were there when they fought for a safety switch on temporary power boards,
and they fought for the right to be trained in up-to-date skills. They also rallied and went on strike for a decent career path and for modern awards. They know their mother fought for the right to work when she got married and for pay equity. They know their father fought for holiday and sick pay. They know their great-grandparents benefited from the establishment of the minimum wage. They know their great-great-great-grandparents fought for the eight-hour day.

There are workers all around this country, past and present, who have endured some loss of pay and some discomfort to themselves for the greater good of others. This is a remarkable display of human spirit. It is the philosophy of the collective. It is about people joining together to improve the rights and conditions of those who endure hardship, put themselves at risk in their day-to-day work or just need some support. It is what is called a social democracy, and this is the philosophy so hated by the Prime Minister. What does this make him? It makes him a little dictator. And there is no small ‘l’ liberal left in this person or in the Liberal Party. These building workers not only are conscious of all this but know that the things they hold dearest—their time with their family and friends, their dignity in earning a living wage, their natural instincts to stand up for each other and their pride in their skills—are all at risk.

Senator Ian Campbell interjecting—

Senator LUNDY—I withdraw that comment, but I think I have made my point. As I was saying, these building workers not only are conscious of all this but know that the things they hold dearest—their time with their family and friends, their dignity in earning a living wage, their natural instincts to stand up for each other and their pride in their skills—are all at risk.

Senator LUNDY—It might not happen immediately, but without this system of industrial relations underpinning all these values of Australian life they will disappear over time.

Senator Ian Campbell interjecting—

The ACTING DEPUTY PRESIDENT—Senator Campbell, I ask you to stop interjecting in that way.

Senator LUNDY—All of these issues impact on real choices faced by Australians. I was not exaggerating when I said this legislation was about relationships and birth rates. With declining birth rates already, how will greater job insecurity and even more irregular hours be conducive to planning a family? It can only make life harder for people already under immense time and financial pressure.

It was not an exaggeration to say it is about prejudice, either. The Prime Minister’s industrial relations changes will allow the personal prejudices of unscrupulous and vin-
dictive employers—of which there are some; not all, but there are some—to reign unchecked in workplaces. The removal of unfair dismissal protection is the most obvious invitation to discriminate, but the bill also proposes to remove the requirement to have antidiscrimination clauses in all agreements. Employers will have such power and control over employment and dismissal that antidiscrimination laws will become practically meaningless. Sexism, racism, ageism, religious discrimination and all those terrible things will have life breathed back into them by a Prime Minister excited at the thought of his ideological dream of smashing unions coming true. This is just one example of how these changes have far broader social implications.

Much of the evidence from the Senate inquiry, stunted and all too brief as it was, shed additional light on many other examples of the broader social and economic impacts of the changes. I will find another opportunity to focus on the massive negative impact on women and young people and on the economic facts of the matter. But today I want to focus on an area that relates to my portfolio responsibilities of sport and recreation. Today the ACTU released the family impact statement for the industrial relations bills before us. It observes in relation to family wellbeing:

Time spent together is the glue that builds family relationships, and it is important to the maintenance of personal relationships as well as parent-child relationships.

I do not think anyone would disagree with that. Given that longer and more unpredictable working hours are an inevitable outcome of these extreme changes, this should be of major concern. I am concerned about how the changes will impact on one of the most meaningful and fun experiences parents share with their kids, and that is through their sport. Under the Howard government’s regime, employer demands for parents to work longer hours, the deprivation of leave entitlements and the imposition of unwanted shift work will mean that many parents cannot commit to coach, manage or support their children’s sporting events after school or on weekends. This pressure will exist for volunteers and officials at all levels of sport. It is relevant to this debate that there are a lot of them. (Time expired).

Senator STEPHENS (New South Wales) (10.53 pm)—It has been a long day. As the days go by, I am becoming more ashamed of this government and my colleagues across the chamber who clamber to defend the raft of legislation that is being rammed through the parliament at the moment. It is very hard to respect a government that is intent upon changing the social and economic situation of Australian families, all in the name of reform, by shredding the rights and protections of working and living standards.

I can only promise Australian families that when Labor wins government this legislation will be confined to the realms of history—confined to a dark period that will one day serve as a valuable lesson about what can happen when an extreme ideology is let off the leash and allowed to savage the rights of Australian workers. It will also serve as a powerful reminder of the strength of collective action. It will be a reminder of a time when the workers of Australia united to reject this legislation and oust the Howard government that forced it upon them—to reject this government’s attempt to cut salaries, cut conditions, cut entitlements, cut minimum standards and cut the independent umpire, the Industrial Relations Commission, from the Australian workplace.

I am not an industrial lawyer and I am not a former trade union official, so tonight in my contribution to the debate I would like to focus my remarks on the limited scrutiny that
the government has allowed this legislation, as evidenced by the quality of the majority report that was tabled yesterday. It is a sham, a whitewash and an absolute disgrace.

The inquiry into the provisions of the Workplace Relations Amendment (Work Choices) Bill 2005 has continued the Howard government’s escalating trend of cutting and savaging the scrutineering role of the Senate as a house of legislative review. It is a trend that started on 1 July this year and a trend that shows no sign of slowing. In fact, it took just 10 weeks after taking control of the Senate for the government to decimate decades of Senate practice and procedures. In those first 10 weeks, the government committed 10 horrid abuses of Senate scrutiny in an attempt to turn the Senate into a rubber stamp for its extreme policies.

Let me remind you of the farce that was the one-day Telstra sale inquiry. Honourable senators will remember this inquiry—yet, considering its duration, I would forgive them if they do not. This lightning-flash inquiry that had at its core the sale of $30 billion of taxpayer assets had just one day to receive and read submissions, hold public hearings, summarise evidence, decide on recommendations and write the report. And let us not forget this ‘limited overs’ version of a committee inquiry prevented submitters from addressing the issue of privatisation and gave them just 24 hours in which to write their submissions.

This inquiry was unprecedented. It dropped the bar for post-July Senate inquiries so low and so fast that now an inquiry of the same time frame would be maintaining the status quo and an inquiry of two days length would be a 100 per cent improvement. What a spin to put on that. So now are we supposed to consider that a one-week inquiry is a seven-fold improvement? Well, no matter the spin one puts on post-July inquiries, they no longer reflect the legislative scrutiny of those held before the Howard government took control of this place.

Let us look at the time frame around the legislation that we are debating at the moment. The terms of reference were drafted and submissions were called for before the legislation was even seen, meaning that submitters had to respond to hints, public comments and the government’s propaganda campaign. The public had only one week to send in their submissions after the bill was introduced into the House. Public hearings were held one week after the close of submissions, meaning the committee hardly had any time to adequately consider the submissions. And, during the inquiry, opposition senators were given one hour to question officers from the Department of Employment and Workplace Relations about the bill. How generous of them! How generous for an inquiry into one of the most complex and re-forming bills ever introduced into the parliament—a bill that proposes the most profound changes to workplace relations in over a century.

Of course, we know why this inquiry was such a farce. We know, in fact, because in an article in the Age newspaper on 17 August this year Senator Brandis was reported telling coalition MPs that the strategy of the inquiry was “stupid”. The article read:

... Senator Brandis yesterday told a private meeting of Coalition MPs that he could not believe what he had heard, branding the strategy “stupid”. “There’s nothing in this for us,” he said. “Senate inquiries are a free kick for the Labor Party, the media never run anything except things that are embarrassing for the Government and it won’t
have any public purpose because the detail will be in the legislation for all to see anyway.”

There it is. That is why, no matter how controversial or complex the legislation, this government insisted on having a farcical inquiry, because it serves no purpose for this government. They are an encumbrance upon the government’s implementation of its extreme ideological agenda. From the thousands of emails, phone calls and letters we are receiving and the numbers of people attending meetings and rallies around Australia, we know that Australians are worried. This inquiry was important. It served an important public purpose and it revealed what a poorly cobbled together piece of legislation the Work Choices legislation really is.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Moore)—Order! It being very close to 11.00 pm, I propose the question:

That the Senate do now adjourn.

Australia: Living Standards

Senator HUMPHRIES (Australian Capital Territory) (11.00 pm)—The media, with its emphasis on conflict and bad news, can create an alternative reality. With journalists and politicians constantly feeding off each other, the press gallery is in many respects even worse. This can cause us to lose sight of what is important and lead us to question the validity of our perceptions and experiences. The fact is that Australians have much to be thankful for. We have a strong democratic culture, a wonderful environment and unprecedented opportunities to pursue our aspirations. No government would want to put this at risk.

Let us put our living standards in perspective. In the Canberra Times on Monday there was an article by Moises Naim, editor in chief of Foreign Policy, entitled ‘The trouble with normal is that, for most, it’s not’. Quoting various sources he pointed out:

... half of humanity lives on less than $2 a day ... a third of the available labor force is unemployed or underemployed, and half of the world’s population has no access to any kind of social security.

He stated that 103 of the world’s 192 nations are either not free or are partially free. He continued:

... 1.6 billion people lack access to electricity

... 852 million people do not eat enough food.

Those examples of dire and desperate poverty—indeed, absolute poverty—fall almost completely outside the Australian experience. I do not quote those statistics to shame Australians into throwing away their possessions or radically changing their values but so that we can appreciate what we in this country have this Christmas. We should put the utmost value on what the Prime Minister has described as the best social welfare unit available to us—namely, the family.

Australia, contrary to what some sneering commentators imply, is not a selfish or shortsighted nation. We have maintained our outstanding international reputation in 2005 through a multitude of assistance measures to developing countries. Our responses to the Asian tsunami and earthquake are the most notable, but consider also the following. Australia donated $3 million to support the Fiji government in conducting free and fair elections; $6 million to help developing APEC countries bolster their defence against emerging infectious diseases such as avian influenza; $9 million to support Papua New Guinea in building its capacity to conduct elections; $9 million to the World Food Program’s efforts to help ease a severe food crisis in Africa; $1 million to the United Nations Children’s Fund to assist land clearance victims in Zimbabwe; $6.2 million to hu-
manitarian assistance for Palestinian refugees; $15 million further funding to the Global Fund to Fight AIDS, Tuberculosis and Malaria; and $9 million over five years for the United Nations Children’s Fund programs in the Pacific, targeting immunisation, adolescent health promotion and the protection of children against abuse and neglect.

**Senator Webber**—Madam Acting Deputy President. I rise on a point of order. Senator Ian Campbell is very quick to point out everything that is parliamentary and unparliamentary in this place. He might like to stop his personal phone conversation when he is in the chamber.

**The ACTING DEPUTY PRESIDENT** (Senator Moore)—Senator Ian Campbell, if you would mind not using your phone in the chamber.

**Senator Ian Campbell**—The next time your family is on the side of the road having a major problem, I hope that you are given the same consideration.

**Senator Lundy**—Go outside!

**Senator Ian Campbell**—Yes, I will.

**Senator Lundy**—Good. Everyone else has to.

**The ACTING DEPUTY PRESIDENT**—Senator Lundy, Senator Ian Campbell is leaving.

**Senator Ian Campbell**—Caring about family and children—it’s all rhetoric for you.

**The ACTING DEPUTY PRESIDENT**—I apologise, Senator Humphries.

**Senator Ian Campbell**—It is absolute hypocrisy, Kate Lundy.

**Senator Lundy**—As if we would know what you were talking about. Go outside!

**The ACTING DEPUTY PRESIDENT**—Senator Lundy!

**Senator Ian Campbell**—Do you think I’d do it if it wasn’t important?

**The ACTING DEPUTY PRESIDENT**—Order!

**Senator Webber** interjecting—

**Senator Lundy** interjecting—

**Senator Ian Campbell**—I am doing that. You’re a hypocrite.

**The ACTING DEPUTY PRESIDENT**—Senator Ian Campbell, I ask you to withdraw that comment.

**Senator Webber**—That is outrageous! Come back and withdraw!

**The ACTING DEPUTY PRESIDENT**—I will ask the whip. I would like Senator Ian Campbell to withdraw the comment he made before he left the chamber.

**Senator Webber**—Madam Acting Deputy President, on a point of order: can you refer the remark that Senator Ian Campbell made to the President and ask him to rule on whether that was parliamentary or not.

**The ACTING DEPUTY PRESIDENT**—Thank you. I was going to do that. I do apologise, Senator Humphries. Please continue your remarks and we will chase Senator Ian Campbell.

**Senator HUMPHRIES**—Locally I have been particularly pleased with the federal government’s spending decisions in 2005—the best demonstration of its commitment to the prosperity and future of the national capital. One of the longstanding myths in Australian politics is that a Labor government is better for Canberra than a Liberal one. This has probably come about because Canberra is widely regarded as a Public Service town and Labor, after all, is a high-tax, high-spending party. The 2005 budget, however, was a ripper for the ACT. It provided 1,671 additional Public Service jobs, most of them in the ACT, and an extra $17.4 million for the National Library, the Australian Film Commission, the National Gallery and the National Archives. It provided $43.7 million
for public schools—an increase of 8.7 per cent—and $41.2 million for the refurbishment of the Royal Australian Mint.

There was other significant good news for the ACT in this budget and in the course of the year. For example, there was $638,000 to improve nine dangerous roads and intersections under the Australian government’s National Road Safety Black Spot Program; an extra $55.6 million in GST revenue for the ACT government; the start of construction of a $460 million national headquarters for Centrelink; a new Medicare office in Gungahlin; a total of $3.65 million for government and non-government schools to improve their infrastructure under the Investing in Our Schools program; an extra 260 aged care places under the 2005 aged care approvals round; and a new $1,000 per resident one-off payment grant to local aged care homes, with a total of $1.5 million. There was also $59,000 for 40 community organisations under the 2005 Volunteers Small Equipment Grants Program; $250,000 for the upgrade of the National Hockey Centre under the Regional Partnerships program and $18 million for the establishment of two Australian Research Council centres at the ANU. That is not by any means the end of the list.

The fact is that the ACT community has done exceptionally well in the last few years under the coalition government. There are, however, around 6,000 unemployed people in my electorate, and I am determined to increase opportunities for them. That is why I support the workplace relations reforms, particularly in relation to the unfair dismissal laws, which have been a disincentive for small businesses to take on additional staff. Of course, Canberra has a particularly high proportion of its work force in small business. This will lead to more Canberrans being able to find jobs and climb what a former Labor leader described as the ladder of opportunity.

Notwithstanding that position, I appreciate that many of my constituents do not share my perception of the legislation. I recently met with representatives of the Community and Public Sector Union who are concerned with the workplace relations reforms. Although I support the reforms, I appreciate that many public servants in my electorate do not. I have maintained throughout my career in two parliaments that, although I may not share many electors’ particular points of view, they are absolutely entitled to have their points of view brought before the parliament by, indeed, their elected representatives. Accordingly, I seek leave to table an out of order petition expressing the concerns of those electors about the workplace reforms.

Leave granted.

Maxwell Ian Carriage

Senator LUNDY (Australian Capital Territory) (11.09 pm)—Tonight I rise to tell a very sad story relating to the events which led to the death of 10-year-old Maxwell Ian Carriage nearly 50 years ago, on 6 September 1957. In doing so, I want to acknowledge Andree Stephens, who on Saturday published in the Canberra Times an extensive and very articulate account of these events. I have borrowed quite extensively from her work. Using that, together with a number of personal conversations I have had with Max’s brother, Allan Carriage, over a number of years, I would like to tell the story.

The Carriage family in 1957 lived at Hammerhead Beach, near Currawong in Jervis Bay, which is close to the Beecroft Head aircraft target and naval bombing range used by the Australian Navy in naval exercises. While today the peninsula is closed to the public, in 1957 the Carriage family regularly crossed the range to walk into Nowra...
The family were Aboriginal fishermen, and to make money they would sell their fish at the local market and occasionally scrap metal collected from empty shells left by the Australian Navy on the range. From all accounts, the Navy knew of the family and would often warn them when exercises were to be conducted, during which time the family would not cross the range until the all clear was given.

According to Allan and Peter Carriage, Max’s surviving brothers, the Navy knew and let the boys pick up the shells and sell them off as scrap metal. On 6 September 1957, Max found a shell that was different to the others that the family had collected. Peter Carriage said:

The particular shell which exploded that day was longer and fatter than any I had ever seen before. We were never ever warned of any different shell or how it could explode so easily.

The 20 millimetre shell was a special trace bullet that had just started being used by the Navy. The one found by Max was live, having not exploded on impact. Ten-year-old Max that day in September was on the range and found the big bullet, took it home, as they had done in the past, and took to it with a hammer, and it exploded. His brother Allan said:

My mum was laying on the bed at the time, when this happened, she run over and picked up my little brother ... all the blood was pumping out of his heart all over her face ... He died in mum’s arms.

Max’s father, Allan Ernie Carriage, had his hand blown off and later underwent amputation of his left arm, and his other brother Peter sustained lacerations to the head and both arms—scars of which he still bears. The surviving members of the family were and still are emotionally affected by the horrific death and injuries sustained by the family.

According to the Shoalhaven and Nowra News of 10 September 1957, Max suffered ‘shocking wounds to the chest, head, abdomen, shoulder and right elbow’. The coroner’s report issued on 12 December 1957 found that Max Ian Carriage ‘died from multiple injuries and severe haemorrhage accidentally received when a live 20-millimetre shell exploded’. The day after the death of Max, the Navy sent a team to inspect the range and retrieved a number of unexploded shells lying on top of the ground, but no effort was made to dig under the ground and retrieve those which may have buried themselves in the soft earth. Allan Carriage believes that, to this day, it is possible that there are still unexploded live shells on the Beeacroft peninsula.

Today, the family of Max, his brothers Allan and Peter, have once again revisited the events leading to the death of Max. They are still seeking, as they did back in 1999, when I first met Allan, an apology and compensation for a lifetime of trauma experienced by the family. To this day, they have never received acknowledgment or an apology from the Navy, the Department of Defence or the Australian government. In 1999, when I first became aware of the Carriage family’s tragedy through several representations by Allan Carriage, I wrote to the Minister for Defence, raising the sensitivity of this issue and urging the government to take action immediately to rectify the injustice.

Since then I understand there have been several letters between Allan Carriage and Senator Hill. And I am advised that today Senator Hill has received a further request from the family for a meeting with Allan Carriage in the hope of some action from the government. I presume that Senator Hill is carefully considering this issue. My purpose tonight is simple. It is to tell the story of Max Ian Carriage and of the deep trauma and emotional impact of such a tragedy on his
family throughout their lives, and in particular on the life of Allan Carriage, with whom I met again yesterday.

It is my view that compensation is due to this family. This family has suffered nearly 50 years without anyone ever taking responsibility for the events leading to Max’s death. It is very difficult to express the sadness which wells up in Allan Carriage when he talks of the death of his younger brother, despite the many years that have passed. What happened to Max was a tragedy, and I take this opportunity to urge the government to fully investigate this issue with the utmost compassion for the case put forward by the Carriage family. While words or money will never erase the pain of Max’s death, or the impact this incident has had on the lives of the surviving members of the Carriage family, it will provide some justice. It has been very difficult for Allan Carriage to tell his story and, certainly, to tell it very publicly as he has. It has only been through the encouragement of friends and supporters that he has been able to go public about these events. It is in that spirit that I put this story on the record this evening.

**Reparations: Children in State Care**

Senator MURRAY (Western Australia) (11.16 pm)—Last year, on 30 August, this chamber was witness to some extraordinary scenes. The normally rarefied atmosphere of the Senate was broken when the Community Affairs References Committee tabled the *Forgotten Australians* report, which was the culmination of more than a year of chronicling the harrowing stories of abuse and neglect of over 500,000 children in children’s institutions last century.

Parliamentary inquiries come and go but few, if any, have had the emotional power of that tabling or of the inquiry process itself. The public gallery was filled with the forgotten survivors, either alone or with family members. Loud applause and cheers intermittently broke out as senators spoke to the report. Many a tear was also shed. And the tears were not just confined to the survivors. Senators wept as they delivered their speeches and afterwards at the packed press conference. The tabling of the report received extensive media coverage, as it should have. Every major paper carried substantial stories of this deeply moving event, with many an accompanying editorial. Every television news channel ran footage of the tabling, and it was the lead story in the ABC’s *7.30 Report*.

Fifteen months on and what a different story. During the last parliamentary sitting, the coalition government finally handed down its long-awaited response to *Forgotten Australians*. Amid the media flurry on industrial relations reform and antiterrorist legislation no media coverage transpired. At the same time, the government also responded to the inquiry’s second report, *Protecting vulnerable children*, which covers the more contemporary problems of child protection. I spoke to the tabling of the government response and expressed my overall disappointment.

The first disappointment is that the federal government has failed to show leadership in the area of child abuse, now recognised by many, including the Australian Medical Association, as perhaps the most serious public health issue confronting Australia. It is serious because the long-term social and economic costs are immense. If you harm a child, a harmed adult will result. Mostly with little education and few life skills to cope on the outside, they got on as best they could. Some made it with the love and support of others; however, many struggled with substance abuse, homelessness, welfare dependency, mental health problems—the list goes on and on. Society at large is affected. For instance, Australia’s National Crime Preven-
tion Program has identified preventing child abuse and neglect as a fundamental element of crime prevention. The associated economic costs are massive, reportedly costing us $5 billion annually.

The second disappointment I expressed was at the general shrugging of the shoulders by the coalition government at what the child migrant, Aboriginal and other Australian survivors of institutional abuse suffered and continue to endure. Its refusal to even consider a national reparations fund indicates a hard-edged approach. Recommendation 6 of *Forgotten Australians* was the one that so many care leavers were counting on. It recommended that the government establish and manage a national reparations fund for victims of institutional abuse. I wish to quote from the report. It says:

There was much discussion in evidence during the inquiry on the means by which reparation for past wrongs experienced by care leavers could be made. A variety of mechanisms were canvassed and these included:

- legal options through the courts;
- various redress/reparations schemes, both overseas and in Australia;
- internal Church-based redress schemes;
- redress through victims compensation tribunals;
- establishing a Royal Commission; and
- significantly boosting and enhancing dedicated services for care leavers.

The Committee believes that the Commonwealth Government should establish a national reparations fund for victims of institutional and out-of-home care abuse. The Committee believes that while monetary compensation can compensate victims to some extent it is unlikely to achieve healing for many care leavers, so other forms of redress, especially counselling is important...

The Committee does not have a definitive view as to the amount of reparations that should be payable under the scheme, but believes that the reparations should be capped at an appropriate level. As noted previously, a maximum amount of $60,000 per claimant is payable under the Tasmanian Government’s scheme, and similar amounts are payable under several schemes operating in Canada. Under the Irish Government’s scheme the payments that have been made to date have ranged widely with an average value of €80,000 [SA136 000].

The Committee believes that the scheme should be funded by contributions by the Commonwealth and State Governments and the Churches and agencies directly involved in the implementation and administration of institutional and out-of-home care arrangements. The Committee considers that, while the Commonwealth did not have a direct role in administering institutional care arrangements, it should contribute to the scheme as an act of recompense on behalf of the nation as a whole. The Committee believes that State Governments should contribute as they were directly involved in the administration of institutional care arrangements. The Committee also firmly believes that the Churches and agencies should contribute to the scheme to share the cost burden and as a form of acknowledgment of their collective role in the failure of their duty of care.

The relative contribution of the various parties to the scheme should be based on their proportionate liability which, as discussed previously in this chapter, should take into account such factors as the relative roles of the respective groups in the provision of institutional care; their ability to pay; and the degree to which they are already providing compensation or funding services for care leavers.

The Committee believes that a board should be established to administer the scheme and that processes to establish claims should be non-adversarial and informal with the aim being to settle claims as expeditiously as possible. The
Committee considers that in determining claims the board should be satisfied that there was a ‘reasonable likelihood’ that the claimant was abused—a lesser standard than the more common civil standard—on the balance of probabilities. The Committee considers that the introduction of this scheme should not preclude victims from pursuing civil claims through the courts as an alternative.

The Irish Redress Board actually sent a representative to Australia to seek out any Australian residents who spent time in industrial schools in Ireland, which are the institutions there, and who wished to put in a claim. What a contrast with the Commonwealth. Only last week the Canadian government announced another $2.2 billion compensation package for children taken from their families and abused in institutions. Not so, though, for those Australians who endured traumatic childhoods in orphanages and children’s homes. It seems they are to remain largely forgotten.

By this government dismissing the reparations fund out of hand, it has dispelled the widespread belief amongst these forgotten people that a measure of justice would now be forthcoming. Justice has been denied them at every turn because of statute of limitation laws. There was a belief that their government would not let them down and continue to forget them—all 500,000 of them. How wrong they were! And, for those survivors who have since contacted my office, how very shattered they are and how utterly disillusioned they feel. It is as if there is a general attitude that, sure, what happened was terrible and wrong and, as the government stated in its response, it is a matter of shame. But that was then and now is now. These survivors need to get on with the rest of their lives. An attitude like that smacks of just not getting it and of heartlessness. Listen to the emotion of the government when it is shouting at the Labor Party and the unions! However, when it comes to what happened to children, their reaction is cold enough to make you shiver.

I and my committee colleagues consider the survivors of institutional abuse to be the most worthy recipients of a reparations fund. Too many endured terror on a daily basis as children, the legacy of which has endured well into their adult lives. It was not their fault and they deserve the solace and compassion that a reparations fund would represent. I urge the government to reconsider this recommendation and show some compassion and a willingness to right the wrongs. With the expectation of an extremely healthy surplus, the opportunity for the government to make a contribution is certainly there. I will end with the quote from submission No. 219 that the committee used at the start of chapter 8 on reparation and redress schemes. It says:

In my heart I feel if there is to be real peace for myself and others like me, I expect some acknowledgment, some justice from society. I would like to be treated respectfully and fairly—to be given a fair hearing, the Australian ‘fair go’... Lawful institutions, whether under the State or Federal Government, the Churches or different religious organisations, play a legitimate role in creating justice for victims. There is no simple way for society to shirk the responsibility of recognising the torture and pain that was inflicted upon innocent children.

Senate adjourned at 11.26 pm

DOCUMENTS
Tabling

The following government documents were tabled:


Australian Bureau of Statistics—
Information paper—Census of population and housing 2006—Nature and content.
Migration Agents Registration Authority—Report for 2004-05.
Office of the Official Secretary to the Governor-General—Report for 2004-05.
Treaties—
Bilateral—Text, together with national interest analysis and annexures—
Multilateral—
Text, together with national interest analysis and annexures—
Universal Postal Union: Seventh Additional Protocol to the Constitution of 10 July 1964, as amended; Convention, and Final Protocol; General Regulations, done at Bucharest on 5 October 2004.
Wet Tropics Management Authority—Report for 2004-05.

Tabling
The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]
Civil Aviation Act—
Civil Aviation Regulations—Instrument No. CASA 490/05—Designation of air-space for broadcast requirements—
aerodromes with certified air/ground radio services [F2005L03699]*.
Civil Aviation Safety Regulations—
Airworthiness Directives—Part 105—
AD/A320/187—Nose Landing Gear Steering [F2005L03704]*.
Higher Education Support Act—Higher Education Provider Approval (No. 13 of 2005)—Campion Institute Limited (trading
as Campion College Australia) [F2005L03706]*.

Migration Act—Select Legislative Instrument 2005 No. 275—Migration Amendment Regulations 2005 (No. 10) [F2005L03683]*.


Social Security Act—Social Security Foreign Currency Exchange Rate Determination 2005 (No. 3) [F2005L03703]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Family Tax Benefit
(Question No. 1302)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 13 October 2005:

For each of the past 5 financial years, can an updated table of Family Tax Benefit reconciliation outcomes be provided: (a) by state and territory; and (b) by federal electorate.

Senator Patterson—The answer to the honourable senator’s question is as follows:

Attachment A contains the reconciliation results by state and territory. There is a significant amount of work required to undertake this analysis by electorate.

Family Tax Benefit Reconciliation Outcomes for 2004-05 at 30 September 2005

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<th>Nil Change</th>
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Family Tax Benefit Reconciliation Outcomes for 2003-04 at 30 September 2005

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## Family Tax Benefit Reconciliation Outcomes for 2002-03 at 30 September 2005

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<th>Total top up payment amount</th>
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<th>Average Overpayment amount</th>
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## Family Tax Benefit Reconciliation Outcomes for 2001-02 at 30 September 2005

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<th>Average top-up amount</th>
<th>Customers</th>
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<th>Average Overpayment amount</th>
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## Family Tax Benefit Reconciliation Outcomes for 2000-01 at 30 September 2005

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<th>Customers</th>
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QUESTIONS ON NOTICE
Family Tax Benefit
(Question No. 1306)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 12 October 2005:

(1) Can updated figures be provided indicating how many families could have incurred a Family Tax Benefit debt in the 2003-04 financial year, before the effect of the per child supplement was taken into account.

(2) Of the families identified in (1) above, can details be provided, in tabular form, of the number of families who could have incurred debt worth: (a) more than $10 000; (b) between $9 000 and $10 000; (c) between $8 000 and $9 000; (d) between $7 000 and $8 000; (e) between $6 000 and $7 000; (f) between $5 000 and $6 000; (g) between $4 500 and $5 000; (h) between $3 500 and $4 000; (i) between $2 500 and $3 000; (j) between $2 000 and $2 500; (k) between $1 500 and $2 000; (l) between $1 000 and $1 500; (m) between $900 and $1 000; (n) between $800 and $900; (o) between $700 and $800; (p) between $600 and $700; (q) between $500 and $600; (r) between $400 and $500; (s) between $300 and $400; (t) between $200 and $300; (u) between $100 and $200; and (v) less than $100.

Senator Patterson—The answer to the honourable senator’s question is as follows:
The per-child supplement is an integral part of the FTB (A) system and the question of how many families could have incurred a debt in 2003-04 without it is hypothetical.