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the Senate and committee hearings are available at

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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, Commandant 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 the Hon. 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
# Members 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
<table>
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<th>Minister Name</th>
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<tr>
<td>Minister for Trade and Deputy Prime Minister</td>
<td>The Hon. Mark Anthony James Vaile MP</td>
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<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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<td>Minister for Defence and Leader of the</td>
<td>Senator the Hon. Robert Murray Hill</td>
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<td>Government in the Senate</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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<td>Minister for Health and Ageing and Leader of</td>
<td>The Hon. Anthony John Abbott MP</td>
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<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
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<td>Senator the Hon. Nicholas Hugh Minchin</td>
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<td>and Deputy Leader of the House</td>
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<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</td>
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<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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<tr>
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**HOWARD MINISTRY—continued**

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<td>Minister for Justice and Customs and Manager of Government Business in the Senate</td>
<td>Senator the Hon. Christopher Martin Ellison</td>
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<td>Senator the Hon. Ian Douglas Macdonald</td>
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<td>Senator the Hon. Charles Roderick Kemp</td>
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<td>The Hon. Joseph Benedict Hockey MP</td>
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<td>The Hon. John Kenneth Cobb MP</td>
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<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
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<td>Special Minister of State</td>
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<td>Minister for Vocational and Technical Education and Minister Assisting the Prime Minister</td>
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<td>The Hon. De-Anne Margaret Kelly MP</td>
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<tr>
<td>Minister for Workforce Participation</td>
<td>The Hon. Peter Craig Dutton MP</td>
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<td>Parliamentary Secretary to the Minister for Finance and Administration</td>
<td>The Hon. Dr Sharman Nancy Stone MP</td>
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<td>Parliamentary Secretary to the Minister for Defence</td>
<td>The Hon. Teresa Gambaro MP</td>
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<td>The Hon. Bruce Fredrick Billson MP</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
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<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
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<td>Parliamentary Secretary (Children and Youth Affairs)</td>
<td>The Hon. Sussan Penelope Ley MP</td>
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<td>Parliamentary Secretary to the Minister for Education, Science and Training</td>
<td>The Hon. Patrick Francis Farmer MP</td>
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<td>Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry</td>
<td>Senator the Hon. Richard Mansell Colbeck</td>
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SHADOW MINISTRY

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

(The above are shadow cabinet ministers)
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<td>Laurie Donald Thomas Ferguson MP</td>
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<td>Gavan Michael O’Connor MP</td>
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<td>Health Regulation</td>
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<td>Shadow Assistant Treasurer, Shadow Minister for Revenue and Shadow</td>
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<td>Shadow Minister for Transport</td>
<td>Alan Peter Griffin MP</td>
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<td>Robert Charles Grant Sercombe MP</td>
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<td>Shadow Minister for Justice and Customs and Manager of Opposition</td>
<td>Peter Robert Garrett MP</td>
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<td>Business in the Senate</td>
<td>John Paul Murphy MP</td>
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<td>Shadow Minister for Foreign Affairs and Pacific Island Affairs</td>
<td>The Hon. Graham John Edwards MP</td>
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<td>Shadow Parliamentary Secretary for Reconciliation and the Arts</td>
<td>Kirsten Fiona Livermore MP</td>
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<td>Senator Ursula Mary Stephens</td>
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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

PERSONAL EXPLANATION

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (9.31 am)—I seek leave to withdraw a remark I made last night.

Leave granted.

Senator IAN CAMPBELL—Last night I made an unparliamentary reference to Senator Kate Lundy, which I now withdraw unreservedly.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (9.31 am)—I seek leave to make a very short statement.

Leave granted.

Senator CHRIS EVANS—I understand there was a very unfortunate incident last night. I accept that Senator Ian Campbell has apologised for that but I want to raise a couple of issues relating to it. Labor is particularly concerned that Senator Campbell was abusive to other senators following an incident about using his mobile phone, I understand, in the chamber. We take the normal rough and tumble without overreacting generally but I do think that his behaviour last night was well beyond the pale. I am particularly concerned that Senator Campbell defied the chair and stormed out of the chamber, as I understand it.

Senator Ian Campbell—I did not apologise. I withdrew the remark.

Senator CHRIS EVANS—That is worse, I suppose, if you are not apologising.

Senator Ian Campbell—I withdrew the remark. You should listen, mate.

Senator CHRIS EVANS—I note that you are not apologising for your behaviour and that you are only withdrawing the remark. My point, Mr President, is this: Senator Campbell’s behaviour last night was totally unacceptable. He defied the chair and stormed out of the chamber while the chair was trying to bring him to order. I understand the government whip tried to bring him back, unsuccessfully, but the behaviour was well out of order. I think the senator ought to apologise as well as withdraw the remark. But I want to raise with you, Mr President, the way he treated the chair. Labor senators take their role in chairing the chamber—normally not during the adjournment; I do not know what happened last night but Senator Moore was in the chair. We expect them to be treated with respect. We expect their authority to be upheld. We do not want to see the sort of arrogance and contempt for the chair that was shown last night. It is certainly not fair on the acting chairs. As I say, while robust behaviour is one thing, petulant and arrogant behaviour is another. I do not know why it occurred last night.

Senator Ian Campbell—You don’t know what occurred.

Senator CHRIS EVANS—I have had reports from the people who were in the chamber at the time, Senator Campbell.

Senator Ian Campbell—Oh, yes, Labor Party people.

Senator CHRIS EVANS—Senator Campbell, if you want to make a further statement, you do so. We will give you the chance to explain.

The PRESIDENT—Order! Senator Evans, you were given leave to make your point and I believe you have made that point.

Senator CHRIS EVANS—If I am not interjected upon, I will finish, Mr President, if you could afford me the protection from being interjected upon.
Senator Ian Campbell—Pot calling the kettle black. You interject during question time.

Senator Chris Evans—Senator Campbell, I will give you leave to explain your behaviour last night without a problem. I would appreciate it, and the Senate would appreciate it, if you apologised for your petulant behaviour. But if you are not prepared to do that then I want to raise with the President that we think the behaviour is unacceptable. I am particularly concerned that the Labor member in the chair was not afforded the respect that she should have been and that the Senate was not afforded the respect it should have been. Given the state of the numbers in the Senate, we sense that that is going to be an increasing problem with us. We had the incident with Senator McGauran and now we have had the incident with Senator Ian Campbell. I do think that there is a wider issue here. I do not know whether you have looked at the video of the incident or whether you intend taking any further action, but I do not think it does anything to protect the standards that we expect in the Senate.

Senator Ian Campbell (Western Australia—Minister for the Environment and Heritage) (9.35 pm)—I seek leave to respond to the remarks made by the Leader of the Opposition in the Senate, Senator Evans. Leave granted.

Senator Ian Campbell—I do not want to delay the Senate but Senator Evans wants to turn this matter into an issue. He wants to make a political game out of this. What occurred last night in the chamber—and he did not know what occurred; he has heard reports from his colleagues—was that we had a very robust debate about a piece of industrial relations legislation. There was a Labor senator in the chair. It is a debate that has dominated Australian politics—Senator Chris Evans—It was on the adjournment.

Senator Ian Campbell—Senator Evans, by way of interjection, shows how little he knows about what occurred last night. My mobile phone was turned to silent in deference to the Black Rod’s advice, which I think was very good advice. I did receive a call and tried to very discreetly, with my head below the desk, deal with the call as quickly as I could. I was called to order by the acting deputy president and immediately ceased the phone call after a point of order by WA Labor senator Ruth Webber. I said across the chamber, no doubt disorderly, that I was trying to deal with a matter. I then got a tirade of abuse from both Senator Webber and Senator Lundy.

Just prior to the phone going off on silent, we had been having a very robust debate about the industrial relations changes that the Howard government has brought to the parl-
liament. It is a very important debate. For the Labor Party it is a debate that goes to the very existence of the labour movement and their organisation. For us it is a debate that goes to the future of the security and strength of the Australian economy, job security and jobs growth in Australia. The Liberal Party and the National Party—the coalition parties—and the Labor Party have a fundamental disagreement over this. It is a very strong debate.

If you go back to the Hansard, Mr President, you will see that only moments before the incident Senator Lundy had accused coalition senators of having blood on their hands because of the potential deaths of building workers because of our legislative changes. She actually said that we would have blood on our hands if we voted for this legislation. I took a point of order on that and the Labor senators got very upset that I dared take a point of order. Acting Deputy President Moore, Mr President, overruled my point of order until she then took advice from the Deputy Clerk.

Senator Lundy then made another remark where she called the Prime Minister of Australia a dictator. Once again I had to take another point of order. The initial ruling of the Acting Deputy President was to the effect that this had been a strong debate. I do not think she used the words ‘robust debate’; it is a term I use too often and I do not accuse her of using it. She said lots of similar remarks had been made during this debate and therefore it was effectively okay.

Senator Ludwig—That was earlier.

Senator IAN CAMPBELL—Of course it was earlier; it was a few minutes earlier. I did the right thing; I made a mistake. I did something that was unparliamentary by calling Senator Lundy an inappropriate name. She had just made a speech about family values, how the Howard government’s industrial relations changes would help break down the family unit, destroy picnics and barbecues and be an end to Australia as we know it, and how important the family unit and children were.

The PRESIDENT—Minister, I think we are getting to the stage where the brief statement is becoming a debate. I think we all accept your explanation.

Senator IAN CAMPBELL—I did not ask for a debate; I just asked leave to make a statement to respond.

The PRESIDENT—I accept that.

Senator IAN CAMPBELL—I will now conclude by saying that I made a reference to Senator Lundy, who had only just sat down having made a speech about family values. I was trying to discreetly deal with an issue and, obviously, took exception to Senator Lundy’s and Senator Webber’s very loud, rude and abusive interjections.

Senator Chris Evans—You ran out of the chamber.

Senator IAN CAMPBELL—I actually walked out of the chamber because I was asked to take the call out of the chamber, which I did. I wanted to urgently deal with the issue—

Senator Chris Evans—While the Acting Deputy President was speaking.

The PRESIDENT—Order! Senator Evans, interjections do not help.

Senator IAN CAMPBELL—Senator Evans wants to make a little political game out of it. He gets up here with his voice quivering because he does not know whether he is on sure ground.

The PRESIDENT—Senator Ian Campbell, I think that short statement has got to the stage where it has finished.

Senator Chris Evans—Be a man and apologise.
Senator IAN CAMPBELL—Why don’t you speak louder.

The PRESIDENT—Order! Senator Evans and Senator Ian Campbell, I think it is time this discussion ceased.

Senator IAN CAMPBELL—Mr President, I have done the right thing—

The PRESIDENT—Order! I think we have heard enough of this debate. Senator Ian Campbell has withdrawn the statement; Senator Evans has made his point. Senator Ian Campbell has explained the reasons why he made that remark. I do not think any good can be served by continuing this debate this morning when we have other more important things to do. Clerk, can we call on the business?

Senator Bob Brown—Mr President, I raise a point of order. To have some good come out of this, might I suggest that you look at the clarification of the rule on mobile phones that they may not be used in the chamber, on silent or otherwise?

The PRESIDENT—The Black Rod has already sent a circular around on the situation with mobile phones. It may be that, as I believe was the case last night, Senator Ian Campbell received a very urgent personal phone call. He admitted that he should have left the chamber but it may be that senators may need their phones when they have an urgent family crisis or something similar. As long as it is on silent and it is not used in the chamber, I cannot see any problem. The Black Rod has already issued, with my authority, a statement regarding mobile phones. That is that.

Senator Chris Evans—Mr President, I raise a point of order. I want to be clear that you understand that I am requesting you to examine the treatment of Senator Moore when she was in the chair. That is the most important issue arising out of this.

The PRESIDENT—I did have a cursory look at Hansard this morning. I respect the work that all the acting deputy presidents do—sometimes in difficult circumstances. Senator Moore did call me and report to me that an unparliamentary remark had been made. I received a copy of the Hansard from the Clerk, which I reviewed. Senator Ian Campbell has withdrawn that remark. If there is any other action I need to take, I will review the Hansard again. I do not want this thing to grow into a huge problem. There are, from time to time, senators on both sides of the place who act inappropriately. We have to try to be even handed. I am sure that my acting deputy presidents all try to be even handed.

Senator Forshaw—Mr President, I raise a point of order. I would like you to clarify a matter regarding the withdrawal of interjections. Yesterday during question time Senator Ian Campbell was requested to withdraw an unparliamentary remark and in doing so he repeated the unparliamentary remark. I understand that that is not an appropriate or an unreserved withdrawal. I would ask you to have a look at what transpired and to clarify that. Is it appropriate for a senator to use an unparliamentary term against another senator and then when withdrawing it get up and repeat it? If that is going to be the future situation then so be it.

The PRESIDENT—I hear what you are saying.

Senator Murray—On a point of order, I would like you to briefly advise you that I witnessed that incident and if you wish me to provide you with a report either official or informal I will be glad to do so.

The PRESIDENT—Thank you.

Senator Lundy—On a point of order, Mr President. I respect your request that we move on to other business, but I do feel compelled to also take the opportunity that
Senator Murray has offered, because I believe there were inaccuracies in the way Senator Ian Campbell described the events.

Senator Faulkner—Mr President, my point of order, and it is actually a point of order, goes to the matter effectively raised by Senator Forshaw. At the conclusion of question time yesterday, Mr President, you made a statement and I sought leave and responded to the statement. At that point I was accused of being a hypocrite, which was withdrawn, and grandly, by Senator Ian Campbell at the time. I assume I was accused of being a hypocrite because I have often suggested that we ought to have some consistency about when statements are made from the chair. I have often made the point that perhaps it is more appropriate after taking note than after question time.

I want to make the point, and I am sure you would appreciate it, Mr President, that when a statement is made by the chair, really the only opportunity a senator has to address the issue is directly after the statement has been made, whether by leave to make a statement or by leave to move a motion that the Senate take note of the statement. I do not think there is any alternative for a senator, and I am sure that you would accept that that is the case. Perhaps there is an issue in relation to consistency about when such statements are made. I just think that we ought to try and ensure that you adopt a procedure whereby they are made at a time consistent with the order of business, if that is possible. It may be a matter of such significance that it is not possible.

It was in that context that after you made a statement I sought leave, which was quite proper, to briefly respond to your statement and thank you for giving me notice of the statement that you made from the chair. I was able to do that. I commenced my statement by thanking you. It was at that point that I was accused of being a hypocrite by Senator Ian Campbell. Then, in withdrawing it, he said, ‘I withdraw the fact that I’ve called Senator Faulkner a hypocrite,’ so he got two bites at the cherry. It is pretty sleazy. It is pretty low. I think that you ought to think about that, Mr President, as you reflect on these issues.

The President—I have taken notice of what has been said this morning and I will think upon those issues.

**BUSINESS**

**Rearrangement**

Senator Ellison (Western Australia—Manager of Government Business in the Senate) (9.47 am)—I move:

That government business notice of motion no. 1 standing in the names of the Minister for the Arts and Sport (Senator Kemp) and Senator Lundy for today, relating to Commonwealth support for football, be postponed till a later hour.

Question agreed to.

**STATUTE LAW REVISION BILL (No. 2) 2005**

**DEFENCE (ROAD TRANSPORT LEGISLATION EXemption) BILL 2005**

**First Reading**

Senator Ellison (Western Australia—Minister for Justice and Customs) (9.47 am)—I move:

That the following bills 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; and

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.

Question agreed to.
Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.48 am)—I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.48 am)—I table the explanatory memoranda relating to the bills and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

STATUTE LAW REVISION BILL (NO. 2) 2005
The Statute Law Revision Bill (No 2) 2005 continues the important exercise of correcting mistakes and removing expired laws from the statute book. The corrections and repeals are desirable in order to improve the quality and accuracy of Commonwealth legislation and to facilitate the publication of consolidated versions of Acts.

This Parliament is very well served by the Office of Parliamentary Counsel, which provides the Parliament with Bills that are drafted to a very high standard. The drafters in the Office demonstrate their professionalism and expertise in the quality of the drafting that comes before us. The Office’s commitment to the quality of the Commonwealth statute book is also evident in the fact that this bill is one that has been initiated by the Office of Parliamentary Counsel.

I commend the Office of Parliamentary Counsel for its work in preparing the bill, for being attentive to the operation of laws on the statute book and drafting amendments to correct any identified errors. In this way, Statute Law Revision Bills prepared by the Office of Parliamentary Counsel play a key role in ensuring the statute book is accurate, accessible and effective.

The bill proposes to correct technical errors such as misspellings, punctuation errors, numbering errors and misdescriptions of text that have occurred in Commonwealth Acts as a result of drafting and clerical mistakes. The bill also proposes to repeal a number of obsolete Acts that have no current or future operation.

The bill has three schedules. Schedule 1 amends errors contained in 14 principal Acts. The kinds of errors proposed for amendment in Schedule 1 are of a minor and technical nature, such as incorrect spelling, punctuation or numbering. Schedule 2 amends errors contained in 19 amending Acts. Many of these errors are misdescribed amendments that either incorrectly describe the text to be amended or specify the wrong location for the insertion of new text. None of the proposed amendments will make any substantive changes to the law.

Schedule 3 repeals a total of 27 obsolete Acts. Part 1 proposes to repeal one Act which is administered by the Minister for Defence. Part 2 proposes to repeal 19 Acts which are administered by the Minister for Foreign Affairs and Trade, and Part 3 proposes to repeal 10 Acts which are administered by the Minister for Industry, Tourism and Resources.

There are various commencement dates for the provisions listed in Schedule 1 and Schedule 2 because the commencement of each item is tied to the commencement of the provision that created the error. The effect of the commencement provisions is that the errors are taken to have been corrected immediately after the error was made. All other provisions commence on Royal Assent.

While none of the amendments proposed by the Schedules will alter the content of the law, the bill will improve the quality and public accessibility of Commonwealth legislation.

DEFENCE (ROAD TRANSPORT LEGISLATION EXEMPTION) BILL 2005
This bill clarifies the extent of Defence’s exemption from the operation of particular State and Territory road transport laws in certain circumstances. It will enable the effective operation of the Defence Road Transport Exemption Framework, recently negotiated between Defence and
State and Territory road transport authorities. The agreed Exemption Framework details the exemptions and processes that will be applied uniformly across the States and Territories to support the conduct of Australian Defence Force road transport operations. The Australian Transport Council endorsed the Exemption Framework on 18 November 2005.

This bill and the Exemption Framework it underpins, reinforces the need for the Australian Defence Force to operate its land vehicle fleet without restrictions imposed by Commonwealth, State and Territory road transport laws. Exemptions from these laws enable the Australian Defence Force to move its capabilities effectively and efficiently along the Australian road transport network. Agreement to a national exemption framework further provides the Australian Defence Force with a consistent process in dealing with the requirements of individual State and Territory jurisdictions.

Australian Defence Force members currently enjoy a wide immunity from State and Territory licensing laws in relation to such matters as road transport under subsection 123(1) of the Defence Act 1903. This bill will better reflect the cooperative approach which underpins the Exemption Framework. It will limit the Defence exemption from State and Territory legislation under section 123 of the Defence Act in this area and, in effect, replace it with the agreed Exemption Framework. The bill provides an opportunity to address any uncertainty regarding possible gaps in the scope of section 123, as well as providing a clear statement of the Defence intent to work closely with the States and Territories in relation to road transport. The new Exemption Framework will be responsive to the requirements of the States and Territories as the owners of the road transport infrastructure and Defence as the user.

The introduction of this bill is consistent with a similar approach adopted in 1998 to limit the immunity contained in the Defence Act and replace it with a more specific exemption regime. At that time an amendment was made to the National Road Transport Commission Act 1991, providing the Australian Defence Force with a broad exemption for special defence-related circumstances. However, these exemptions were never implemented because the regime prescribed was dependent on the adoption by the States and Territories of model road transport legislation, which did not occur. Following the Review of the National Road Transport Commission Act the Department of Transport and Regional Services recommended that the Defence provisions should not be carried forward to the replacement legislation. The replacement legislation, the National Transport Commission Act, was passed by parliament in 2003.

An intergovernmental agreement established to oversight the introduction of the National Transport Commission Act provided a mechanism for Defence and the State and Territory governments to move forward in developing an appropriate exemption framework. Consequently, the parties, with the assistance of the National Transport Commission, have worked assiduously over the past two years to deliver a workable exemption framework. This result provides an excellent example of cooperation between the Commonwealth and the States and Territories in support of the defence effort.

The Exemption Framework establishes the specific categories of exemptions that will apply for principal ADF routes used in exercises, operations and day-to-day activities. The exemptions involve specific engineering dimensions relating to the mass, size and width of Australian Defence Force land assets, as well as specific licensing and road rules exemptions for Australian Defence Force personnel. These exemptions will also apply to personnel from visiting foreign Defence Forces acting in accordance with an arrangement approved by the ADF.

Implementation of the Exemption Framework will occur over the next six to twelve months. Jurisdictions are expected to implement the Exemption Framework through their respective administrative processes on a voluntary basis. Defence will concurrently amend as required its Defence Road Transport Instructions to ensure internal compliance with the Exemption Framework.

Defence will be required to resolve outstanding issues with individual jurisdictions during this period before full implementation can be
achieved. These matters will continue to be pursued in a consultative and cooperative manner. The Exemption Framework will be maintained by the National Transport Commission and will be available for public viewing on the National Transport Commission’s website.

Finally, it should be said that this bill does not impose any requirements on State and Territory governments. It simply limits the current Defence immunity under subsection 123(1) of the Defence Act to ensure that the road transport exemptions set out in the Exemption Framework can operate in the manner that they are intended to.

This bill reflects Defence’s willingness to work with the States and Territories on these matters, rather than utilising Commonwealth powers to impose an exemption solution on individual jurisdictions.

Ordered that further consideration of the bills be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

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

WORKPLACE RELATIONS AMENDMENT (WORK CHOICES) BILL 2005

Second Reading

Debate resumed from 29 November, on motion by Senator Abetz:

That this bill be now read a second time.

Senator STEPHENS (New South Wales) (9.50 am)—I was reflecting last night on the conduct of the inquiry into this Workplace Relations Amendment (Work Choices) Bill 2005. Perhaps a good place to start is with submission 175, entitled Research evidence about the effects of the ‘work choices’ bill, written by a group of 151 Australian industrial relations, labour market and legal academics. I quote from the submission:

We hold divergent views on many issues. Indeed, we regularly debate industrial, economic and workplace issues at national and international forums and in the Australian and international literature. We do not always agree.

However, we share grave concerns about the historic and far-reaching changes now proposed for Australia’s workplace relations and their potential effects upon Australian workplaces, workers, and our larger society and economy.

They then proceeded to list 10 very real concerns that flow from this legalisation. One of their number was Ms Robyn May, a research fellow from the Royal Melbourne Institute of Technology, who appeared before the committee on 17 November with three of her colleagues. During their time in front of the committee, Ms May described the experience of New Zealand workers when the government implemented industrial relations changes. She said:

... collective bargaining levels collapsed in favour of individual bargaining. However, bargaining was not really what was happening. Instead, often workers were offered standardised individual contracts that unilaterally removed conditions. These were presented on a ‘take it or leave it’ basis.

She continued:

The 1990s in New Zealand saw increased inequality in income distribution, a significant fall in the full-time work participation rate for men, flat productivity, a minimum wage that did not keep pace with inflation and real wage cuts for many vulnerable workers. In some sectors, such as retail, penalty and overtime payments were unilaterally removed by employers without compensation. A significant wages gap between Australia and New Zealand opened up, estimated to be somewhere around 20 per cent, even accounting for the fact that over 400,000 New Zealanders live in Australia and not just for the good weather.

This evidence continued for another 12 pages of Hansard. What was mentioned of this evidence or the submission in the majority report? Nothing. Other than a listing in the appendix and within the minority report, you would not even know that these academ-
ics had provided evidence. Their absence from the government report surely fits with Senator Brandis’s comments that unless there was something in it for them, why would they ever dream of acknowledging it. In fact, flicking through the footnotes of the majority report, I cannot even find a single mention of any of the evidence taken from the public hearings on 17 November. Perhaps this is because the majority of witnesses who gave evidence that day were highly critical of the legislation—in fact, on the day those critical of this legislation outnumbered the supporters almost two to one. Those opposite are pretending that the hearings simply did not occur.

On 17 November, the Hansard records that groups who gave evidence included the Australian Workers Union, who recommended that the bill be rejected in its entirety; the Human Rights and Equal Opportunity Commission, who had grave concerns about it; the Transport Workers Union, who also recommended the bill’s rejection; and the Australian Catholic Commission for Employment Relations, who said the bill did not satisfy their requirements. Refusing to acknowledge these contributions to the debate is in fact another strategy of this government in silencing dissenting voices.

I would like to briefly look at what the Human Rights and Equal Opportunity Commission and the Australian Catholic Commission for Employment Relations provided in evidence to the committee. HREOC expressed deep concerns about the implications of this legislation, especially when coupled with the extreme Welfare to Work changes, on Australia’s social fabric. Pru Goward, the Sex Discrimination Commissioner, said:

HREOC does have grave concerns about the implications of dismantling or removing any significant planks of a social, legal and economic contract in Australia which has evolved over 100 years and around which a variety of institutions, policies, cultures and government programs have grown up.

Unless careful adjustments are made to surrounding institutions, laws and policies, inevitably that whole contract is challenged. The Work Choices bill, particularly in conjunction with the Welfare to Work changes, represents a wholesale change to the way Australian workplaces operate and, as a consequence, will have major implications for the Australian community more broadly.

So there is this level of criticism from one of the government’s own. It was not what it wanted to hear, so it was ignored in the report.

The Australian Catholic Commission for Employment Relations stated that the IR proposals before them did not satisfy their requirements for what should be in the legislation. Mr Michael McDonald, the acting chair, stated:

The pursuit of economic growth by means that impose unfair burdens on the poor and vulnerable, and which impose burdens on struggling families, should be resisted.

And he said further:

The Australian fair pay and conditions standard does not constitute a fair minimum standard for the purpose of workplace negotiations. A departure from the current safety net would expose many low-paid and industrially weak employees to inequitable bargaining that will impact on their terms and conditions of employment and consequently their ability to support themselves and their families.

Unfortunately, these were not the only concerns that were blatantly ignored by government members in their report. In fact, practically any evidence critical of the changes suffered this fate. For example, respected legal academic Dr Jill Murray from La Trobe University, who made a powerful submission and appeared as a witness, did not even rate a mention in the majority report. She should have been included—her evidence was very important. She outlined in vivid detail what a job can be reduced to under this legislation.
Dr Murray’s evidence highlighted the worst features of this legislation. There will be no minimum or maximum weekly hours, besides the 38 hours averaged over a 12-month period. There will be no entitlement to a suitable income week by week because the concept of a weekly wage is abolished. There will be no meaningful entitlement to overtime payments. There will be no entitlement to higher rates of pay for unsociable hours; the employee can be required to work at any time in the 24-hour span. There is no legal entitlement under the bill’s scheme to certainty of scheduling; the scheduling is wholly in the hands of the employer. There is no legal entitlement to a written statement of employment status and conditions of employment on engagement. There is no legal entitlement to pay or hours records. There is no or little job security. There will be no access to modern work and family standards created by the AIRC earlier this year. There is no right to receive information about changes at work or be consulted about such issues. There is no access to legally mandated career structures. There is no right to collectively bargain. Finally, as we all know, there is no voice in the new Work Choices wage setting process.

Who are most likely to feel those effects? Those working on minimum wages, casual workers, young workers, single parents, women, unskilled workers, those with poor English and rural workers, all holding it together as best they can. They will be screwed both ways: through this and the Welfare to Work reforms. Where is the economic modelling? Where is the economic analysis that shows how the range of changes are going to improve productivity, create jobs, improve the circumstances of working men and women and their families? Most government members do not even feel the need to defend these aspects of the legislation, because they cannot; nor can they describe the impacts of the intersection between this legislation and the Welfare to Work reforms that we will witness being bulldozed through the Senate next week.

Let me highlight just one submission from an individual for those senators opposite and ask them to consider the important message presented in good faith by an Australian elector. I am referring to submission No. 144. It is from Kate Lester, a very worried mother who believes that her concerns about the industrial relations changes are very well founded, given the recent experience of her 14-year-old daughter, Isobella. Isobella was recently fired from an ice-cream parlour in Manly in Sydney, which had just experienced a change of management, because she refused to sign a new contract that would have undercut both her hourly rate of pay and her existing entitlement to penalty rates.
for working on Sundays. In the words of Ms Lester, her daughter’s employer:

... approached each young worker individually and presented a new contract. He said words to the effect of, ‘You need to sign this to confirm that you are working with me.’ He then proceeded to flick through the documents over approximately 10 minutes and acknowledged that the document contained no penalty rates and no loadings. The employer did not offer to Isobella for her to take a copy home to consider. She was asked to sign the document there and then.

My daughter wouldn’t sign the document. That night she raised the matter with me and we discussed the contract. Isobella decided not to sign the new contract.

When she went to work the following day, the employer—

... inquired as to whether Isobella had yet signed the contract. When he became aware that she hadn’t he said ‘So, you’ve decided that you’re no longer working for us.’

Fortunately for Isobella, she had the wherewithal to ask for help from her union, the SDA in New South Wales, who instigated a claim of victimisation under section 213 of the New South Wales Industrial Relations Act and her employer quickly offered the position back. It is worth noting that Isobella’s contract still had to pass the no disadvantage test and the union represented action was an unfair dismissal claim.

Both of these protections will soon be eradicated from Isobella’s workplace and it will be open slather for employers around the country. The scales will be tipped overwhelmingly in favour of employers over employees, who will have the choice between taking a job that drastically cuts their rights and pay or taking no job at all. Parents such as Ms Lester will have to sign an AWA on behalf of their children. In her words:

I either sign the AWA to enable my child to get the job working on less than Award conditions or I refuse to sign the AWA to enable and my child is not offered the job. This is not a choice.

Let me assure Ms Lester and her daughter that we in Labor agree. You are right: this is not a choice. The very core of this legislation is about stripping choice—stripping it from the employee and dumping it squarely in the lap of the employer. That is their work choice. And Senator Brandis might note for the record that the detail is not in the legislation. This government want to hide the detail in regulations that we will not even see for weeks, perhaps months. That is their workplace relations amendment bill, and Labor absolutely and unreservedly opposes it.

Senator CROSSIN (Northern Territory) (10.03 am)—I rise to provide a contribution to the debate on the Workplace Relations Amendment (Work Choices) Bill 2005. Undoubtedly, this legislation strips away 100 years of mutual respect for workers’ rights, removes the legal protection for many employment conditions and sets a new all-time low for the future workplace conditions of Australian workers. Since Federation, our industrial relations system has been built on the notion that ordinary hardworking Australians got a fair pay for a fair day’s work and that everyone had the chance to participate in the benefits of economic growth but that there was also protection there for the worker when times got tough.

These changes were not put before the Australian people at the last election, so this government has no mandate to strip away those rights, which we have enjoyed for 100 years, and to attack the long-held belief that everyone is entitled to a fair go. The Prime Minister claims that this bill is fair. ‘Fair’ is defined in the dictionary as ‘free from bias, dishonesty or injustice’. To attempt to describe this bill as fair is therefore a travesty. It is not free from bias, it is not just and to try to suggest that it is can only be described as dishonest. So, on all counts, it fails.
There is an enormous gap between the rhetoric and the reality in the proposed workplace relations changes before us in this chamber this week. The rhetoric says that these changes will help secure the future prosperity of Australians. Even Brad Norington in the *Australian* on 3 November pointed out:

But that’s where the fine rhetoric as compared with the actual impact of the changes goes awry... almost all of these rules strengthen the bargaining position of the employer. So much so that... employees will be at the complete mercy of an employer’s benevolence.

Antony Forsyth wrote in the *Age* in October:

... when you drill down into the detail of WorkChoices, the rhetoric of freedom, choice and bargaining between “equals” is revealed to be largely illusory.

The proposed changes to workplace relations limit the ability of workers to form unions, severely restrict the rights of unions to enter workplaces to help workers, limit the ability of workers to bargain collectively, restrict the ability of any neutral umpire to settle disputes, remove any guarantees on many basic existing conditions and remove the no disadvantage test. The list goes on. For the Aussie worker this bill is horrendous. It is the Christmas present from hell.

If the Prime Minister and the Minister for Employment and Workplace Relations, Mr Andrews, seriously think workers have the ability to bargain for their conditions on an even playing field with employers, it is further evidence of just how out of touch they are—or just how much a puppet of the business industry they have become. If Minister Andrews seriously thinks that workers can afford to take accountants in to bargain for them, as he suggested, how little he knows or cares about the average worker’s financial situation.

Australia is now in its 14th consecutive year of economic growth. While the Howard government may like to try to claim credit for this, it is in fact all based on changes commenced by past Labor governments. The industrial relations system has not held the economy back. Disputes are in fact at an all-time low. The fact that the Howard government believes we may now be facing a slowdown in our economic growth and prosperity is not the fault of workers or trade unions in this country. The changes the government is pushing here will do little to help solve the situation. Employers will not take on extra workers just because labour is cheap or is easily dismissed. They will only do so if there is work available for them to do and if they can find workers with skills to do that work at a profit. We all know that under the Howard government we have seen a massive skills shortage on the increase, and it is being ignored daily by this government. The government has grossly underfunded TAFE and VET for years, and tens of thousands of young Australians have missed out on university and TAFE places in recent years.

It is this skills shortage and the declining investment in our national infrastructure that are now causing any economic slowdown, not the workers and certainly not the trade unions. There is absolutely no need for the changes proposed in this so-called Work Choices bill. This government has been unable to comprehensively prove that such changes are needed or warranted at this time. Rather, it is a 30-year-old macabre dream from an out-of-touch Prime Minister to shatter unions and workers and to see our wages and conditions on a par with those of our Asian neighbours.

Workers will not know from one contract to the next what pay and conditions they will lose in the bargaining, for the no disadvantage test will disappear. If a worker asks for more than an employer is offering then the employer will be able to go and find an unemployed ‘Billy’ and offer him minimal pay...
and conditions instead. Employees will have no protection from dismissal, whatever the size of the business. Employers could claim operational reasons for dismissing a large part of their work force and then hire more employees with greatly reduced conditions. Not only will the neutral umpire, the AIRC, be emasculated and left with a very limited role, but the minister will have the power to say, if workers have the temerity to strike over negotiations, that the strike is illegal, after which draconian penalties can be applied to individuals and to unions.

This is just a small part of what this bill does. It takes away everything from the workers and leaves all power with employers and the minister. There is indeed no evidence at all that the proposed changes will have any great benefit for our national employment or productivity growth. For some time, there were government claims that the changes to the unfair dismissal laws could lead to the creation of some 70,000 or more jobs. This number came from a survey that was discredited for poor research and wrong assumptions. It was discredited by, for example, people like Dr Oslington, who gave evidence to the Senate committee inquiry into the unfair dismissal bill.

The Prime Minister further claims that the only way to have employment growth is to reduce protection for employees. He uses the example of countries like Germany to claim that a country with a highly regulated labour market has a far higher unemployment rate than Australia. However, as pointed out by Peter Brown, writing in the Age on 28 October, what he fails to say is that in the case of Germany the labour market is so highly regulated as to be totally different and irrelevant to our situation. Furthermore, it is not so long ago that Germany took on the added burden of the economic problems and masses of unemployed from the former communist East Germany, so it is hardly surprising that they do have a high unemployment rate.

At the opposite end of the regulation scale, the USA has a very deregulated labour market, with some not very spectacular results, including a huge number of have-nots who really struggle to survive at all. Ask the Kiwis too. In mid-1990 their conservative National Party government tore up the industrial relations rules and shifted power, just as the Howard government is now doing, to the employers. Many Kiwis copped savage take-home pay cuts.

Using the unemployment rate as an indicator of labour market health is unreliable, as it omits a large group of potential employees, namely those who have dropped out of the jobless statistics. A more reliable measure is the proportion of working age population who have a job. The OECD also has an index of employment protection, which measures the strictness of employment protection legislation. When we match up the two sets of figures—the employment protection and employment rates—for Australia and 16 comparable OECD countries, it does not offer much support for the government changes either. Australia is already in the bottom half of the employment protection range. Our workers already have less protection than most and we are only a touch above average on the employment scale.

Several other countries with higher employment protection also have higher employment rates. To put it more simply: of the six countries with the highest levels of employment, five have higher employee protection than we do. So further attacking employee rights and protection looks unnecessary and unlikely to help much in improving our employment rate. Notably, the OECD countries above us and with better employee protection and employment are Switzerland, the Netherlands, Norway, Sweden and Den-
mark. By and large, these countries are all far less resource-rich than Australia, but they value add to products with highly skilled work forces. They have not neglected education and training and the funding of that sector.

This bill will significantly reshape the terms of employment in Australia, especially for those who have responsibility for both work and care. The government again lacks evidence that these changes will benefit families and, as Barbara Pocock stated in her submission to the Senate inquiry:

These changes are occurring as against the background of changes in the welfare system requiring sole parents whose youngest child turns 8 to find at least 15 hours of paid work.

These workers will enter a minimalist, individualistic system with significant family and care responsibilities and weak bargaining power.

Australia already lags behind the industrialised world when it comes to recognising and accommodating workers with family responsibilities—with high levels of insecure work, long average hours of full-time work and a poor regime of leave to attend to family commitments. While many countries are seeking to improve their work and family arrangements, as highlighted by the Sex Discrimination Commissioner, Pru Goward, Work Choices will ensure that this country goes in the opposite direction. The five components of the fair pay and conditions standard represent a retreat on national work and family standards by incorporating only basic leave conditions and failing to allow the rights of parents to request extended family leave, part-time work or more shared parental leave. This bill also provides that, once on an individual agreement, an employee can never return to an award. So, once given up, basic award conditions, especially those enjoyed by families, will be lost in the long term.

The intention of this bill is to individualise the industrial conditions of the workplace, so Work Choices will see an expansion of the Australian workplace agreements. AWAs are less family friendly. The facts are there. Only 12 per cent of AWAs registered between 1995 and 2000 had any work and family provisions and only 25 per cent of AWAs registered between 2002 and 2003 had family or carer’s leave. Eight per cent had maternity leave and five per cent had parental leave. This legislation will also impact upon female workers much harder than it will male workers. Women who need family-friendly provisions the most will have the least access to them. Only 51 per cent of women on AWAs had access to annual leave, compared to 62 per cent of men, in AWAs registered in 2002 and 2003, and 14 per cent fewer women than men had access to any general work and family provisions.

This bill also prohibits the Industrial Relations Commission from hearing and presiding over national test cases. This will have a major impact on the working conditions of women as we know that most of the gains, if not all of the gains, enjoyed by women and their families in the work force in the past have come from national test case decisions, such as the paid maternity leave and unpaid parental leave provisions.

I turn to my electorate in the Northern Territory. There are a number of comments I want to make. I have brought into the chamber with me this morning an Australian workplace agreement from a company in the Northern Territory. It says:

Normal work hours for ground staff are six days per week and/or at the direction of your supervisor.

It goes on to say:

Sick leave accumulating at the rate of one day per month worked will be granted for illnesses not as a result of workers compensation claims.
No paid annual leave is cumulative from one year to the next.

With regard to wages, the last page says that those with duties in accordance with the directions of the operations manager or a person delegated by him will receive $550 a week gross for 5½ days. There is no mention in this AWA of penalty rates. There is no mention in this AWA of any shift bonuses or of any parental leave, maternity leave or anything other than the conditions that this boss is demanding of this worker. This AWA was signed in July of this year under the current agreement, so I do not imagine that things are going to get much better for this company and these workers.

The Palmerston City Council has adopted a policy of insisting that all new employees sign an AWA as a condition of employment. Under this, annual leave will be reduced from six weeks to four weeks, but a recent opinion survey that was conducted by Peter Berry Consultancy among staff of the Palmerston City Council showed that, of the four things that would most change Palmerston City Council for the better, the most frequent response from the employees of that council was an enterprise bargaining agreement. Not surprisingly, of the four worst things about working for the council, one of them unanimously chosen by staff was having an individual contract. People in the work force do not like it. They do not like being forced into a situation where it is them against the boss. They do not like being in a situation where their rights to collectively bargain are taken away from them, and they do not like the fact that they will have limited opportunity to be represented by the union in their workplace in the future.

I also want to make some comments about a member in the other place who, in delivering his speech in this debate, suggested that the trade union numbers in the Territory had been in decline. I am not entirely sure which sand his head has been in in recent years, but my understanding of the trade union figures—of which I have an intimate knowledge—is that the Northern Territory is one place in this country where trade union membership has steadily been on the increase for more than a decade now. That is particularly so given the expansion of the railway, the Bechtel LNG gas plant and the expansion of the G3 project at Alcan. Trade union numbers are on the increase, and to suggest for one minute that these industrial relations changes are needed because the situation in the Northern Territory is that businesses are struggling defies the reality and the facts. In fact, only on Monday of this week, a press release entitled ‘Territory Businesses Look to Strong Future’ put out by the Northern Territory government claimed that the Sensis business index released on Monday reveals that Territory small businesses are continuing to outperform the nation in key areas of economic growth. After gaining a six-and-a-half-year high in business confidence in the last Sensis index, Territory small businesses recorded the highest level of sales, profitability and capital expenditure over the last quarter. There is no evidence at all that the current workplace relations system is failing businesses in the Northern Territory. There is no evidence at all by this government to show that these massive changes in the workplace are needed in order to make business more productive or more profitable. There is no evidence whatsoever—not during the inquiry, not in the report and certainly not from any of the contributions of the members of this government—justifying why these changes are needed.

Hidden in the detail of the government’s new Work Choices industrial relations legislation are new rules that remove the right of workers under industrial awards to be paid on a weekly, fortnightly or even monthly
basis, as my colleague Senator Stephens al-
luded to. All provisions in awards relating to
how and when employees are required to be
paid will now become non-allowable. We
have seen it in the AWA that I have quoted
from today. It does not say whether that $550
gross is to be paid weekly, fortnightly or
monthly—even six-monthly. This means that
it will no longer be possible to include the
following types of clauses in employment
awards because, under the government’s new
IR laws, all provisions in awards relating to
how and when employees are required to be
paid will become non-allowable. The re-
requirement that employees be paid on a
weekly or fortnightly basis will be gone.
Provisions that give employees who are paid
by cheque time to cash the cheque will be
gone. Provisions to enable employees to
nominate which bank their money is paid
into or provisions that on termination wages
must be paid within a reasonable time will be
gone.

Labor opposes these unfair and extreme
industrial relations changes and we will fight
these changes in every city and in every
town across the nation, until the very last
vote is cast on the day of the next federal
election. We will continue to argue for pro-
ductive and fair industrial relations that will
return dignity, fairness and productivity into
the workplace and that respect and uphold
the rights of workers in this country to bar-
gain collectively and to have fair bargaining
in their workplace—not Work Choices, but a
fair workplace and a workplace in which the
rights of workers are respected and pro-
tected.

Senator KIRK (South Australia) (10.23
am)—I rise to speak to the Workplace Rela-
tions Amendment (Work Choices) Bill 2005,
and to oppose these extreme and unfair laws
that will punish the most vulnerable workers
in Australia. This is bad legislation. It is un-
fair legislation and it is divisive legislation.
Furthermore, it is family-unfriendly legisla-
tion. This legislation is a blatant stab in the
back for Australian workers and their fami-
lies.

 Australians have never asked for this leg-
islation, and the government never told us
about this legislation at the last election.
During the last federal election in 2004, the
coalition parties made no mention of scrap-
ning the award system or abolishing the no
disadvantage test—that is, they made no
mention of removing protection for penalty
rates, overtime, leave loading and shift al-
lowances; nor did they make mention of re-
moving the setting of a fair minimum wage
from the Industrial Relations Commission;
nor did they make mention of abolishing
unfair dismissal protection from employees
in workplaces of up to and including 100
staff.

The Australian people do not want this
legislation which is before us here today, a
point that my colleagues and I will continue
to make in this debate. But are Prime Minis-
ter Howard and his colleagues listening to
ordinary Australians? No, they are not. Aus-
tralians are now starting to see through this
Prime Minister. They are starting to see him
for what he is—out of touch with the wishes
of the Australian people. By hastily pushing
ahead with this ideologically driven bad leg-
islation, this government is arrogantly and
shamelessly trampling on the wishes and
better interests of this country’s workers and
their families, and the processes of parlia-
mentary democracy. More and more, this
government is showing its true colours. By
allowing only one week for a Senate inquiry
into a bill proposing the biggest legislative
change to the system of industrial relations in
Australia in over 100 years, it has abused, as
it no doubt will continue to abuse, its Senate
majority. At nearly 700 pages, and with ex-
planatory memoranda of some 560 pages, the
so-called ‘Work Choices’ bill is the largest
amending bill ever considered by this parliament. To add insult to injury, hearings were scheduled in the week following the closing date for submissions. It is outrageous for the government to think that this was sufficient time for the Senate committee to properly consider the 5,000 submissions that it received concerning this bill.

During the Senate inquiry, Associate Professor Barbara Pocock, a research fellow from the University of Adelaide, provided an overview of a submission made by 151 Australian academics. The submission represented the views of a large, diverse group of Australian experts, including the majority of senior, experienced leaders in the field—31 professors and 28 associate professors from 26 institutions, with expertise in the field of workplace issues, including the disciplines of economics, management, business, law, psychology and industrial relations. Associate Professor Pocock summarised the submission as follows:

The proposed changes deserve a thorough public discussion, which the government’s timetable does not allow. These changes are, in our view, profound, they are not evolutionary, and beyond their intended consequences the bill has potential for serious unintended consequences.

We are concerned about the issue of complexity. One of the government’s goals is to reduce complexity. However, the bill adds a whole raft of new complexities, so we do not view this as deregulation; it is increased regulation.

There is the question of a changing balance between employers and employees. Employees and employers approach the labour market with different levels of power.

Internationally, labour law is designed to protect workers from exploitation and to ensure basic rights, including the right to organise and to bargain collectively.

The bill ignores these widely accepted views and shifts the balance in Australian workplaces—a historic and radical change, which is in conflict with international treaties to which Australia is a party.

We are concerned about increased inequality in the labour market arising from the bill. Such inequality has already been growing in Australia.

It has important social consequences, a large body of social research tells us, for things like social exclusion, violence and health.

Finally, the bill reduces the existing work and family supports in Australia, and it offers no general way forward to improve the important areas of labour law and workplace life. This has very important implications for future labour supply and for those least able to bargain for themselves, as well as for many other Australian men, women and children.

As I said, this submission was a summary of a submission made by 151 Australian academics, including some 50 or 60 professors and associate professors, from 26 Australian institutions in disciplines ranging from economics and business to law and industrial relations. This is not the view of just one academic.

There is no doubt in my mind that this is one of the most important pieces of legislation to come before the Senate since I became a senator in mid-2002. Industrial relations legislation affects the wages, salaries, terms of employment and family lives of all Australian workers to an extent that is almost unsurpassed. It also has a profound effect on the economy and the labour market. This government has maintained, throughout its $55 million propaganda campaign, that these laws are essential to fuel economic growth and improve productivity in the workforce, but it has failed dismally to make the case that this bill will improve the living standards of Australian workers.

This bill does not reflect the economic and social realities of the Australian workplace. Rather, it is motivated by this government’s extreme ideological and political agenda. This bill is a three-pronged attack on work-
ing families and their way of life. Firstly, it targets for destruction the wages and conditions of Australian workers. Secondly, it undermines the Australian way of life and in particular the Australian notion of the fair go, which as we know is a fundamental part of Australia’s national identity. And, thirdly, it attacks the trade union movement in Australia.

Despite the government’s deception in its publicly funded $55 million advertising campaign, this bill will lead to a decrease in the minimum wage that will leave working Australians worse off. By spending such an obscene amount of public money on propaganda, the Prime Minister has effectively shown that he is prepared to say, do and spend anything to get his extreme industrial relations changes through the parliament. That amount of money, $55 million—which is equivalent to the annual wages of nearly 1,700 registered nurses—could have been far better spent, with a direct benefit to the overall wellbeing of the Australian community.

The Prime Minister and his government have repeatedly refused to guarantee to the Australian people that no worker will be worse off under these revolutionary changes, despite continual invitations from the opposition for him to do so. Instead, the Prime Minister has insisted:

My guarantee is my record.

Sadly, however, this response does little to generate confidence in Australian workers once that record is subject to scrutiny. The Prime Minister’s reluctance to provide a guarantee that no Australian worker will be worse off is all the more startling given his enthusiasm to do so in 1996, when he introduced his last reforms to workplace relations laws. On that occasion, the Prime Minister quite promptly declared that no Australian employee would be worse off as a result of those changes. In the Prime Minister’s own words, that promise was ‘a rock-solid, iron-clad guarantee’.

According to the Prime Minister, his record is that wages have grown by 14.9 per cent in real terms since he took office, and that the minimum wage has grown by 12 per cent in real terms. However, as the shadow minister for workplace relations, Mr Stephen Smith, has observed, the increases in the minimum wage over the last 10 years have occurred despite opposition from the government, which has consistently opposed decisions of the Industrial Relations Commission with respect to the minimum wage. Had the Industrial Relations Commission accepted the government’s submissions, the minimum wage would be $50 a week, or $2,600 per year, lower than its current level.

But this bill is designed to give the government a new chance to drive down minimum wages through the quite inappropriately named Fair Pay Commission. The Australian Industrial Relations Commission will effectively be bypassed by way of this legislation. Prime Minister Howard’s record shows that we can expect to see a fall in the minimum wage, a move that will spell disaster for the nearly two million employees who are currently dependent upon it. The government’s attempts to drive down wages stem from its outdated economic view that lower wages will somehow improve flexibility and productivity. As numerous economists have said, there are few sound economic theories to support this view. For example, Mark Wooden, the deputy director of the respected Melbourne Institute, has expressed doubts as to whether there is any evidence that these new laws will boost productivity.
As my colleagues have observed, the economic basis of the government’s actions is that Australia needs to compete with India, China and developing nations in wages. All this amounts to is a race to the bottom, a race which Australia ultimately cannot win. Labor is of the view that more sophisticated solutions are needed to increase Australia’s international competitiveness. As the Leader of the Opposition has maintained, these solutions involve increased investment in education and training. Australia must become smarter. It must improve its infrastructure and improve the skills of its workers. We simply cannot compete with India and China and others on our doorstep by lowering wages and diminishing conditions. Apart from taking steps to reduce the wages of Australians, the government has introduced in this bill measures that will have a damaging effect on the conditions of Australian workers and their families.

One of the most significant changes that this bill makes to the workplace relations structure in Australia is its scrapping of the award structure. Under the present federal award system, there are 20 allowable matters governing conditions and entitlements for employees. The no disadvantage test is also in place to ensure that any individual or collective agreement does not place an employee at an overall disadvantage in comparison with a relevant award. Under the changes foreshadowed in this bill measures that will have a damaging effect on the conditions of Australian workers and their families.

The bill establishes, as a minimum standard, four allowable matters in awards, including annual leave, personal or carers leave, parental leave and ordinary hours of work. These four minimum requirements will form the basis of the government’s so-called fair pay and conditions standard. At risk are public holidays, rest breaks, meal breaks, incentive based payments, annual leave loadings, allowances, penalty rates and loadings for shifts and overtime. These are some of the most crucial conditions currently enjoyed by Australian workers, and they are central to their way of life. All of them may be taken away from Australian workers at the stroke of a pen and without any compensation. They will not be protected by law, as the government claims.

The government’s frontal assault on the awards system coincides with a new and greater emphasis on Australian workplace agreements. Together with the abolition of the no disadvantage test, AWAs are set to become the government’s new mechanism for the removal of fair pay and conditions. The bill seeks to implement a radical departure from the existing requirements under the Industrial Relations Act by way of placing workers on AWAs. Under the present arrangements, AWAs may be made compulsory by an employer for new employees or for existing employees who have received a promotion.

The thrusting of AWAs onto employees and the simultaneous abolition of the no disadvantage test will be a tragedy for Australians and their families. By tearing up the no disadvantage test, the government has ensured that workers forced onto AWAs will not enjoy the protections they have under the award system. What will workers be able to say about being subject to inferior conditions? Absolutely nothing, if they wish to keep their jobs.

The government’s experiment with AWAs represents one of the greatest failures in the history of workplace relations laws in Australia. It is a source of great embarrassment and disappointment to the government that its much trumpeted AWAs have been such a dismal failure. To date, only four per cent of Australian workers are on AWAs. What has
been the government’s response to the overwhelming rejection of AWAs? Has it sought to improve conditions? Has it sought to provide real incentives for Australian workers to enter into individual agreements? The answer is a resounding no. Instead, the government’s solution to the refusal of Australian workers to adopt AWAs is to make them compulsory. The government has done this out of frustration rather than any genuine attempt to reform industrial relations laws. It has done this because it is drunk with power after gaining control of the Senate, and now we are seeing how that is breeding laziness and cynicism.

AWAs are a euphemism in every sense of the word. They are contrary to the established system of industrial relations in Australia, with its long traditions in collective bargaining and enterprise bargaining. The title ‘workplace agreement’ is nothing short of deceptive. The bill does nothing to encourage agreement between employers and their employees. Rather, it places the balance in employer-employee relations firmly in favour of employers. It provides for a workplace climate in which employers will be able to call all the shots by insisting that employees sign away their conditions. There is no agreement at all in such a process.

I now want to turn my attention briefly to another of the government’s attacks on the conditions of Australian workers, and that is the removal of unfair dismissal laws in Australia. Prime Minister Howard has manipulated public perceptions of these laws to create the belief that workers will maintain their existing rights in relation to dismissal under the bill. The government, from the Prime Minister down, has loudly proclaimed that the present unlawful dismissals regime will remain. At the same time, it has fostered the perception that these will provide similar safeguards to the present unfair dismissal laws. The government’s aim in perpetuating this view is to blur the distinction between unfair and unlawful dismissal laws.

The fact of the matter is that the two are very different, particularly in terms of how they are initiated. Unlawful dismissal is a legal remedy that requires a dismissed employee to initiate legal proceedings in the Federal Court. Only a limited number of rights are covered under unlawful dismissal laws, and they incur all of the high costs and delays associated with legal action. By comparison, unfair dismissal laws offer a far simpler and less costly process. Most are settled within two months through conciliation. Unfair dismissal claims are initiated in the Australian Industrial Relations Commission. As we are aware, it is this which is being attacked by the government. (Time expired)

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.43 am)—I would like to begin this speech on the Workplace Relations Amendment (Work Choices) Bill 2005 by quoting Pru Goward, the Human Rights and Equal Opportunity Commission’s Sex Discrimination Commissioner. At a committee hearing into this bill, she said:

A society is only as stable and strong as its most fragile.

The Democrats hold the view that, with the so-called Work Choices bill, the Liberal and National parties are assaulting the cultural, economic, social, institutional, legal, political and constitutional underpinnings of work arrangements in Australia. As a result, we believe we are destabilising Australian society.

The landmark Harvester case of 1907 instituted a basic wage for men and established an industrial relations system in recognition of the need to legislate the welfare of family over profits and productivity. Harvester placed the welfare of the family at the centre of social economic policy from the begin-
nings of Federation. Since then, the Australian industrial relations system has been built around a framework that provides a safety net for the most vulnerable and a balance between community standards and individual needs.

The need for such a system was articulated by the Australian Catholic Commission for Employment Relations. They said:

... some employees come to the job market disadvantaged and that, for them, the labour market will not satisfy their fundamental human needs. Their dignity requires appropriate intervention and protection. There is a need for a “safety net”, to use a contemporary term, to ameliorate some of the effects of an unrestrained labour market.

While there have been reforms to the industrial relations system over time—most recently in 1993 and 1996—the reforms have maintained the core framework centred around a safety net of pay and conditions to protect the vulnerable, and mechanisms to balance community expectations and individual circumstances. Yet this bill will undermine the foundations of Australia’s industrial relations system. It does this by abolishing the no disadvantage test and replacing it with five minimum standards, by effectively abolishing the award system, by taking away the wage-setting role of the AIRC and further reducing its role in other areas, by abolishing unfair dismissal protection and by unfairly and unnecessarily increasing the bargaining power of the employer.

The bill will set no maximum weekly hours, no entitlement to a stable income, no meaningful entitlement to overtime payments, no access to modern work and family standards, little or no job security for many Australians, no right to collective bargaining and no entitlement to penalty rates for working on public holidays. While it is unlikely that all Australians will be made worse off by these changes, we are convinced that it will erode conditions over time and prevent the widespread take-up of new community standards. More importantly, this bill will have a detrimental effect on vulnerable and disadvantaged employees and job seekers. For them, this bill is not fair; it is profoundly unfair. HREOC Sex Discrimination Commissioner Pru Goward told the committee that:

... the bill fails to adequately protect ... workers with disabilities, Indigenous people, people moving between welfare dependency and paid work, and those in low-paid wage jobs, for which there are many competitors and who consequently have little individual bargaining power.

She went on to argue that the capacity for more vulnerable employees to bargain effectively and to choose their employment arrangements will be nonexistent. For them, individual bargaining will be a case of ‘take it or leave it’. She said:

Allowing employers to make employment conditional on an employee taking up an AWA, for example, means that that choice of employment arrangements, especially for those on minimum wages, is extremely limited. The consequences are felt not only by workers but by their children and families. HREOC has serious concerns that, once an agreement is terminated, neither that agreement nor an award is in operation, with employees presumably to be covered only by the standard. This means that an employer can terminate an agreement unilaterally after the nominal expiry date of the agreement and that all employees covered by the agreement revert to the standard. This provides employers with a great deal of leverage over the terms and conditions of any new agreement.

Law professor Andrew Stewart argued that the way the bill is written actually points to ‘a calculated attempt by the government to destroy the award system and prevent it from functioning as any meaningful form of safety net’. Dr Jill Murray argued that the system is:

... designed to ensure that an as yet unknown number of workers have as their only legal mini-
mum entitlements the terms and conditions set out in the Australian Fair Pay and Conditions Standard.

She called these jobs ‘the worst jobs’. Dr Murray rightly argues:

In any civilised society, it is a proper function of the law to ensure that at an absolute minimum, the worst jobs are ones which we are not ashamed to have in Australia. These should be jobs that we are comfortable seeing our fellow Australians doing and, if it comes to that, doing ourselves.

The Democrats would argue that, unless an economy is genuinely in dire straits—which Australia’s is not—economic reform is not more important than social cohesion. In any case, the preservation of social capital is crucial to economic and social success in the long run. Employment, wages and working conditions directly affect the standard of living and quality of life of individuals and families. It is of course important that labour market arrangements foster the efficient use of labour and promote participation in the workforce. But they also need to recognise that labour is a distinctive input to production and that wider social objectives and relationships are involved, including relationships between work, leisure and family, providing safe workplaces and the role of workers in society at large.

I think the Minister for Employment and Workplace Relations, Kevin Andrews, needs to be reminded of the speech by Pope John Paul II, who argued that human rights must take precedence over the market. He said:

It would appear that, on the level of individual nations and of international relations, the free market is the most efficient instrument for utilizing resources and effectively responding to needs. But this is true only for those needs which are “solvent”, insofar as they are endowed with purchasing power, and for those resources which are “marketable”, insofar as they are capable of obtaining a satisfactory price. But there are many human needs which find no place on the market. It is a strict duty of justice and truth not to allow fundamental human needs to remain unsatisfied, and not to allow those burdened by such needs to perish. It is also necessary to help these needy people to acquire expertise, to enter the circle of exchange, and to develop their skills in order to make the best use of their capacities and resources. Even prior to the logic of a fair exchange of goods and the forms of justice appropriate to it, there exists something which is due to man because he is man, by reason of his lofty dignity. Inseparable from that required “something” is the possibility to survive and, at the same time, to make an active contribution to the common good of humanity.

The Democrats argue that it is important that we balance employee and employer rights. If employers had all the power then we would see in many cases a race to the bottom, where wages would be driven down, people would be forced to work longer for less and job security would be nonexistent. The social contract would move from cooperation to opposition and conflict.

The government argues that the Democrats, Labor, the Greens, academics, churches, welfare organisations, legal practitioners and the Human Rights and Equal Opportunity Commission are just scaremongering. Yet we have evidence from New Zealand, from the Victorian Kennett government and from the Western Australian Court government to suggest that reforms similar to those in the Work Choices bill will have a negative impact on disadvantaged Australians and on Australian society overall.

In 1991, the New Zealand National government at that time radically deregulated the industrial relations system, introducing its Employment Contracts Act. Although some of those reforms produced the desired outcome, it is now clear that the reforms did not produce the results hoped for by their advocates. By the end of the 1990s, New Zealand was a less equal society than ever before in terms of income distribution. It had a lower full-time participation rate, lower real wages
and flatter productivity, with a diaspora of up to a quarter of its population—many of them in Australia—earning considerably higher rates of pay than they could at home.

The deregulation of the Western Australian industrial relations system during the Court government resulted in decreases in wages and increased inequality, and it saw certain groups of workers worse off—in particular, women fared badly relative to men and to other women in Australia. In February 1992, the WA gender pay gap was 22.5 per cent. By May 1995, it had widened to 27.8 per cent. The 2005 research paper by the Liquor, Hospitality and Miscellaneous Union which analysed the effect of workplace agreements in WA found that the Workplace Agreements Act of 1993 contained provisions which were significantly inferior to those in awards. It found that, under the act, standard full-time working hours increased from 38 to 40; the accepted minimum casual loading of 20 per cent was reduced to 15 per cent; junior rates applied up to the age of 21 years; and the accrual of unused sick leave was removed, as were penalty loadings for weekend and shift work.

The Western Australian Parliamentary Secretary for Agriculture and Forestry, Mr Anthony McRae, described the effects of the 1990s reforms on the industrial relations scene there. He said:

There is very clear research based evidence that will show and demonstrate ... that the process of establishing individual workplace contracts, with the removal of awards as an underpinning basis for fairness and standards across industry, creates circumstances in which there becomes a downward bidding in economic terms amongst enterprises and amongst employees. That is the inevitable and guaranteed outcome of what the national parliament is considering ... and you have Western Australia as a stark and failed example of that.

Similarly, in Victoria deregulation as a result of the Kennett reforms and the establishment of schedule 1 workers created a significant low-wage sector, particularly in small workplaces and in certain industries. Schedule IA workers were nearly twice as likely to be low paid compared with employees on awards; 75 per cent were not paid penalty rates for working weekends; 65 per cent were not paid annual leave loadings; and only six per cent were paid shift allowances. Evidence from a Victorian IR task force found that workplace bargaining over entitlements was never achieved. Findings from the ACIRRT Victorian employers survey found that the trading off of entitlements was not reflected in an increase in minimum hourly pay rates.

This bill dismantles the safety net and other protections, and the government has offered no alternatives to protect the disadvantaged. Again, I quote from Sex Discrimination Commissioner, Ms Goward:

The HREOC does have grave concerns about the implications of dismantling or removing any significant planks of a social, legal or economic contract in Australia which—as she correctly points out—has evolved over 100 years and around which a variety of institutions, policies, cultures and government programs have grown up. Unless careful adjustments are made to surrounding institutions, laws and policies, inevitably that whole contract is challenged.

Not only has this not happened but the government, via the Work to Welfare bill, has stripped away the welfare safety net for widowed, separated and single parents and for people with disabilities. Not only will those groups of people be shifted off the pension and onto Newstart, which will result in between $29 and $106 a week less, but if they do not accept a job offer they will lose financial support for eight weeks. Many of these people will be forced into low-paid jobs with
fewer conditions and less flexibility and security.

The government has publicly admitted that the young, the unskilled and those with little choice will have to take low-paid inflexible jobs to get a foot in the door. The government argues that four out of these 10 workers move onto other jobs. What about the other 60 per cent who are trapped in a vicious cycle of low-paid, unskilled work that provides no training, no security and no flexibility to balance family needs?

I put it to the government that the mark of a civilised, successful, First World liberal democracy is high living standards and equitably shared wealth, and an egalitarian society that respects and protects the working poor and the disadvantaged, and that has advanced working conditions. The Prime Minister has failed to provide any empirical economic evidence to support these changes. He has failed to provide genuine choice and he refuses to give a guarantee that no workers will be worse off, because he knows that poor, disadvantaged and powerless workers will be worse off. It is for these reasons that I and my Democrats colleagues cannot possibly support this bill.

Senator STERLE (Western Australia) (10.58 am)—I rise to speak against the Workplace Relations Amendment (Work Choices) Bill 2005. The irony of the title of the bill is blatant. You could be forgiven for thinking that this bill was about giving workers choice in workplace relations. It is not. And the use of a phoney name highlights the weakness of the government on this issue. The government use irony in the titles of their bills whenever they know that they are taking an indefensible position on an issue. I am sure that, if a Howard government minister introduced a bill into parliament requiring all Australians to be chucked in gaol and put on rations of bread and water, they would call it the ‘Guaranteed Food and Shelter Bill’. The Work Choices bill has nothing to do with choice. It should really be called the ‘No Choices’ or even the ‘Two Choices’ bill, because if this bill becomes law, Australians will either have to sign an unfair contract or they will not get the job. This bill is yet another example of how the Howard government ruthlessly pursue their ideological agendas without regard for the effects they will have on ordinary working Australians.

But the Howard government have not confined their blatant misrepresentations to the title of this bill. They wasted $55 million telling half-truths to the Australian public in their spectacularly unsuccessful propaganda campaign and in their ministerial press releases. On 9 October, the Minister for Employment and Workplace Relations put out a press release in which he made a number of unqualified claims. The minister did not have the courage to explain the Howard government’s position fully. Let me give you an example. The minister said:

**Under WorkChoices the new workplace relations system:**

... ... ... ... 

Will better balance the unfair dismissal laws

The only way this statement could be true is if you believe that ‘balance’ means abolishing protection from being sacked harshly, unjustly or unfairly for around four million working Australians. This is what the minister and the rest of the Howard government believe but they are too gutless to come out and say it. Instead, they hide behind $55 million worth of weasel words and an advertising campaign that would make a Nazi propagandist blush. If you do not want to take my word for it, this is what Heather Ridout of the bosses union, the Australian Industry Group, in one of her brochures about the Howard government’s changes said:
The practical result of the Government’s intention to reform this area will be a two-tier system. Employees of smaller companies will lose all their unfair dismissal rights, while employees of larger companies will retain most of their existing rights.

A two-tier system! What a disgrace! Either you want people to be treated with dignity and respect or you do not. Labor believes that workers should have the right to feel protected by the laws of this nation and should be safe in the knowledge that they cannot be dealt with unfairly, not because of how many workmates they have but because of who they are. Without explaining what he actually means or offering a skerrick of evidence to substantiate his claims, the minister concluded his press release with the statement:

The Australian Government is determined to put the national interest first and take the difficult decisions necessary to keep our economy strong and our nation secure ...

Herr Goebbels could not have said it better himself. But let us have a look at this brave new world the Howard government has in store for working Australians, and instead of fascist platitudes let us deal with specifics.

I have in my possession an Australian workplace agreement or AWA that has already been registered by the Office of the Employment Advocate. The names of the parties have been removed to protect the innocent from retribution but the agreement covers a painter in the construction industry we will call Billy the Brush Hand. Billy the Brush Hand’s boss has convinced Billy to sign this AWA in exchange for a flat hourly rate of $17.50 that requires him to forfeit his annual leave loading, his morning tea breaks, his travel allowance, his overtime rates, any right to paid sick leave, any right to paid holidays and his right to pay for time lost where a workplace has become unsafe through no fault of his own, and, to top it off, Billy can be stood down at any time but he has to give one week’s notice before he can quit. Clause 6.1 of Billy’s AWA states:

The contract of employment for this agreement shall be daily hire.

Not weekly; daily. Clause 10.2 states:
Where the employee is required to work outside the ordinary hours—of 6 am to 6 pm—he will be paid at his normal hourly rate.

Clause 11.1 states:
Payment for annual leave is included in the hourly wage rate ... and therefore the employee is not entitled to any paid annual leave.

Clause 11.2 states:
Leave without pay will be taken when there is a downturn in the work at hand or—cop this Senator Joyce—... the Christmas holiday period.

Clause 12.1 states:
Payment for sick leave is included in the hourly rate and therefore the employee is not entitled to any paid sick leave.

Clause 13.1 states:
Payment for public holidays are included in the hourly rate, and therefore the employee is not entitled to any paid gazetted Public Holidays.

I think Billy got a raw deal. It is clear that Billy had to sign this contract or he would not have got the job. As a former union organiser I have met hundreds of people who got themselves into the same position that Billy the Brush Hand has. I tried to help them all. What Billy needs is a union organiser to point out to him that under the award wage rates and conditions contained in the national building and construction award Billy would be around $12,000 a year better off than he is under the AWA he signed.
When Billy was forced to accept the wages and conditions in this AWA that are so much lower than those of people doing the same job as him on other work sites, he made it harder for those workers who negotiated a better deal than he has to keep their wages and conditions, because their boss is now going to be undercut by Billy’s greedy boss. Instead of undercutting his fellow workers’ wages, Billy would have a better chance of getting a better deal for himself if he stands united with his fellow workers against his own boss’s greed.

I always found that, when people like Billy work out how much they are getting ripped off and how that has the effect of dragging down the wages and conditions of everyone else, they choose to join the union of their fellow workers and stand up for themselves. But why would the Office of the Employment Advocate approve such an agreement? What real meaning is there in the no disadvantage test? The answer is that the Office of the Employment Advocate is not really independent. The last time I looked, the Employment Advocate’s web site contained a template for an AWA complete with voluntary overtime provisions. It is absurd that the same organisation that is entrusted with promoting AWAs is also responsible for compliance. But why is the Howard government going to the effort to change the law if agreements as unfair as Billy the Brush Hand’s are already being approved by the Employment Advocate? It is because the Howard government knows that it is loosing the war for the hearts and minds of people who are being done over just like Billy the Brush Hand.

Between 2002 and 2004, the percentage of Australians employed under collective agreements rose and the percentage of Australians employed under individual agreements fell. The Howard government is worried by this trend, so it wants to rig the rules further in favour of people like Billy the Brush Hand’s boss. The Minister for Employment and Workplace Relations tells us that the Howard government will:

... take the difficult decisions necessary to keep our economy strong ...

We all remember in 1987 when the then British Prime Minister, Margaret Thatcher, told the world:

... there is no such thing as society. There are individual men and women, and there are families. I put it to the Senate that there is no such thing as the economy. There are individual working men and women, and there are families. Workers are not just commodities in the service of greater profits; they are people trying to make a decent living for themselves and their families.

Senators from the other states would do well to note that laws such as those proposed in this bill are not new. They were introduced during the 1990s by a Liberal government in my home state of Western Australia. Liberal Western Australian senators opposite will remember what happened to the Liberal Court government after they introduced anti-worker laws similar to those in this bill. The people of Western Australia consigned the Court government at the 2001 election to the compost heap of history. Graham Kierath, the industrial relations minister, lost his blue ribbon seat of Riverton to Labor on a 10 per cent swing—not as much as Pittwater, but still a decent swing—having the misfortune to call his own defeat while sitting next to Kerry O’Brien on ABC’s election night panel. I can assure senators opposite who were not fortunate enough to see it that the close-up shot of the last drop of blood draining from Graham Kierath’s face made for great television.

Before government senators make the same mistake and end up in the compost heap with the likes of Graham Kierath, I will
give them one last chance to learn from the lessons of history. What has been the result since the Gallop Labor government repealed these repugnant laws in Western Australia? Western Australia has enjoyed a run of historically low unemployment, with an average unemployment rate in the four per cent range for the last two years. Employment has increased by 130,000 jobs and Western Australia has regularly led the nation in economic performance, achieving the highest gross state product per capita of all the states and the highest measure of labour productivity for the last three years. Simply put, Western Australia has become the engine room of the Australian economy. All this after laws such as those proposed in this bill were repealed.

There is plenty of evidence from the Western Australian experience to explain why laws such as the ones proposed in this bill were so unpopular with the people of Western Australia. An independent report produced for the Western Australian Commissioner of Workplace Agreements by the ACIRRT titled *A comparison of employment conditions in individual Workplace Agreements and Awards in Western Australia* found that 74 per cent of individual workplace agreements provided no weekend penalty rates of pay; 67 per cent provided no overtime rates of pay; 56 per cent provided an ordinary rate of pay below the award rate; 49 per cent absorbed annual leave into the ordinary hourly rate of pay; and 75 per cent were without a pay increase provision.

The reason that the Western Australian individual workplace agreements were able to do this is because, like this bill, those laws did not contain a no disadvantage test. The abolition of the no disadvantage test puts hard-won job conditions up for auction. Once the no disadvantage test has been removed from the AWA system, jobs will go to whoever is prepared to give up the most. Public holidays, rest breaks, meal breaks, bonuses, leave loadings and overtime loadings will all be up for auction under the Howard government’s ‘No Choice’ regime.

Government senators opposite clearly want a return to the good old days of the 1930s, when workers lined up outside the factory each day hoping to get a day’s work, with the work going to whoever was prepared to earn the least. The ACIRRT concluded on page 65 of the report that:

... it appears the IWAs have been used by employers as a means of changing a number of key award provisions and are more likely to be used by employers to gain an advantage in industries that are highly competitive.

The Prime Minister has conceded that workers could be bullied into accepting cuts to their conditions if this bill becomes law. On the John Laws radio program of 10 October he said:

There are nasty people who run businesses; there are nasty people who work for businesses.

That is true. But this bill, if enacted, would provide a competitive advantage to the nasty people who run businesses and who want to screw over their staff. The good bosses—and there are plenty of them; decent, hard-working small business men and women who put their family homes on the line to create jobs for other people; those who do the right thing by their workers, who invest in their workers’ skills and provide training opportunities—are the sorts of people who do not waste their time with ghouls like Peter Hendy or his morally corrupt outfit. Those bosses will be undercut by competitors who will take advantage of these laws to drive down labour costs by removing penalty rates.

Instead of competing on the efficiency of their production methods or the quality of their management abilities, they will be competing on lower wage costs in a race to the bottom, and the scungiest and least principled bosses will be rewarded. This will
leave the good bosses with little option but to lower their workers’ wages to compete with their nasty competitors. And this is what this bill is about. It is about tilting the playing field in favour of the worst elements of industry by allowing the most ruthless and nasty employers to get a competitive advantage.

And yet, despite the Western Australian experience, the Howard government continues to make the false claim that this bill is about improving the economy. It might be about increasing profits for shareholders at the expense of workers, but it has nothing to do with improving the economy. The Gallop Labor government dumped laws like these and the WA economy boomed without them. Western Australians are used to the lies, distortions and hypocrisy of the Liberal Party. They are used to wild claims made without any evidence, and against established facts, by Liberal members of parliament.

On 27 November 2003, Mr Don Randall, the Member for Canning, gave an adjournment speech in the other place. Whipping himself up into a lather, Mr Randall said:

It is almost a state of anarchy in the workplace in Western Australia when you see so many strikes in so many different areas under a Labor government. Nowhere near this level of strikes was perpetrated under the previous coalition government...

Let us look at the truth of Mr Randall’s claim. In 2003, the year Mr Randall gave that speech, there were 97 working days per 1,000 employees lost in Western Australia due to industrial disputes. It seems that Mr Randall slept through 1995, during the time of the Liberal Court government, when there were 150 days per 1,000 employees lost due to industrial disputes—97 under Labor; 150 under the Liberals.

No-one could ever accuse Mr Randall of letting the truth get in the way of a good beat-up. But we should not expect better from Mr Randall. He is a man who likes to parade himself around in the robes of Christian values come election time but ignore the concerns of church leaders once elected. We all remember 15 September 2004, during the last election campaign, when Mr Randall, the member for Canning, invited the Prime Minister to the Perth Christian Life Centre. We remember him telling the media that Christians:

... want to know that somebody actually has good Christian principles ... they want to know that they’ve got a Christian at the head of the Australian Government.

And well they might. But do they want someone who parades their faith when they are pandering to people for votes but ignores Christian principles when in office? Do they want someone who invokes Christian principles at the ballot box but turns his back on the concerns expressed by church leaders such as Anglican Archbishop Peter Jensen and Uniting Church President, Dr Dean Drayton, about this bill? I do not know. It is not for me to judge.

The Prime Minister and his henchmen have long held that there is no legitimate role for trade unions in Australia. When they look at trade union members they see the enemy. When I look at trade union members I see people—Australian mums and dads working hard every day to raise their kids, put bread on their tables and make ends meet. At its heart this bill is an attack upon the living standards of working Australia and on Australian families. That is why it must be opposed and it is why I oppose this bill. I will always stand in defence of working Australians who stand together in union.

The senators opposite are not conservatives. They are dangerous radicals and they are trying to toss 100 years of constitutional stability out the window. That is what they
are about—tossing decency out of the window; tossing fairness out the window. These Tory tossers are willing to toss out the safeguards that have protected Australian working families from the worst elements of exploitation for no other reason than they hate people who stand together in union asking for a fair share of the profits of their labour. The senators opposite, lackeys and bootlicks one and all, sucking on the teats of their corporate masters in the Australian Chamber of Commerce and Industry, will be judged by the Australian—

Senator Kemp—Mr Acting Deputy President, I rise on a point of order. I do not normally rise to take points of order on these. We know that the senator is a paid-up union member and he has just been reading out—

The ACTING DEPUTY PRESIDENT (Senator Marshall)—What is your point of order, Senator Kemp?

Senator Kemp—The disgraceful attack on the people in the chamber. He said senators were bootlickers and used other absolutely appalling language. We do not speak of our colleagues in this chamber the way you speak to your colleagues in trades hall. I ask that those comments be withdrawn.

The ACTING DEPUTY PRESIDENT—Senator Sterle, I would ask you to withdraw those references.

Senator STERLE—I will withdraw those references. But it is all right for senators on the other side to attack union leaders and their families. I am a very proud member of the Transport Workers Union. The senators opposite will be judged by the Australian people at the ballot box, just as the West Australian Liberal Court government was, and I cannot wait for the fight.

Senator WORTLEY (South Australia) (11.17 am)—Labor oppose the Workplace Relations Amendment (Work Choices) Bill 2005 because we know it is not in the best interests of workers, not in the best interests of their families and not in the best interests of Australia. It is the biggest attack on the rights of Australian workers in 100 years.

Three weeks ago more than 500,000 Australian workers made a stand opposing the introduction of the Howard government’s Work Choices bill, and thousands more have voiced their opposition to it. But the government refuse to listen. They have ignored the concerns raised by the Australian community—churches, unions, social welfare agencies, workers and their families, academics, and many good employers—about the adverse impact these changes will have on Australian workers and their families. They have failed to guarantee that wages will be sustained or increased in real terms under these changes and they have failed to provide a guarantee that no individual Australian employee will be worse off. They have ignored the concerns raised about the likely impact of the legislation, particularly on the poor, the disadvantaged, the vulnerable and the hundreds of thousands of Australian families.

Only this week, Catholic Archbishop of Sydney, Cardinal George Pell, said in an article published in the Sunday Telegraph:

This Bill will increase the “Americanisation” of the Australian workplace in some unfortunate ways through its hostility to unions and by further increasing the wage differentials between the very rich and prosperous and those battlers at the other end of the spectrum.

He went on to say:

When the new nation of Australia set a “basic wage” for all its workers in 1907, it was to enable a family with three children to live in “frugal comfort”.

In the proposed legislation, there is no such emphasis on fairness.

In the submission by Sydney’s Anglican Archbishop, Dr Peter Jensen, to the Senate inquiry into this bill—the inquiry that was
... vulnerable workers, or those who have less bargaining power, need to be protected from the effects of any reforms. For example, the unequal bargaining position of some workers and the inexperience of new entrants to the workforce means that some potentially could be taken advantage of. Traditionally, unions and the Australian Industrial Relations Commission have played an important role in our community in protecting such workers. We would wish to see such protection continue to ensure that employers’ power is not increased at the expense of those with less bargaining power.

The submission by the Reverend Dr Wansborough from the Uniting Church in Australia states:

We believe this system of work choices does not give workers any more choice, and it limits the income they derive from having fewer choices and being expected to work a wider range of hours. They lose the shared time but they also do not recompense for having lost it, so they lose out both ways as families.

Here in Canberra this week a church vigil outside Parliament House attended by representatives from the Quakers, Baptists and the Uniting Church expressed concerns that the bill will result in the erosion of quality family and leisure time for many Australians and will undermine the balance between employer and employee rights. When we listen to representative organisations, much of what we hear is the same concerns raised by Labor members, minor parties, unions and many other members of our community.

Australian workers currently have an award system with 20 pay and conditions standards that are protected by law. When this bill is passed this will be reduced to just five. The five guaranteed conditions are: a minimum wage of $484.40 per week; annual leave of four weeks, with an option to cash out two weeks; 12 months unpaid parental leave between parents; personal leave of 10 days paid leave, accumulating for personal sickness but capped at 10 days per annum for caring purposes; and 38 ordinary hours of work per week that can be averaged over 12 months. This means you could work 20 hours one week and 50 the next.

The government tells us what the legislation protects—and it is only five conditions—but it does not tell us what it does away with. The reality is that there is no choice for workers with the government’s Work Choices legislation. Workers’ bargaining power will be removed, resulting in what will be, in many cases, ‘accept it or don’t take the job’ or ‘accept the pay and conditions’. That is all that is on offer.

Where an award contains superior provisions to those in legislation, these will be retained initially in existing awards and agreements. However, employers can exclude these superior provisions in new agreements and individual contracts. Other exclusions include skill based career paths, restrictions for trainees, enterprise flexibility provisions and trade union training leave. In the event of a redundancy payment, where an employer offers alternative employment, even at lower pay, and is rejected, the employee is not entitled to redundancy pay.

An award review task force will further reduce conditions under the guise of improving productivity and employment. With the changes implemented by this government, the classification rates and casual loadings will be rationalised and there will be fewer rates. The concept of skill based salaries will become redundant. Gradings, levels and classifications stand to become a single minimum rate. Individuals will be forced into a position of negotiating and justifying claims for higher than the single minimum rate of pay. The task force will examine existing federal awards to recommend rationalising these awards too.
Today, many workers are covered by union-negotiated certified agreements that contain conditions well above the award minimum. These agreements can replace the award entirely or they can sit on top of the award. In either case, the agreement must pass the no disadvantage test. This means that on an overall basis the terms of the agreement must be at least as good as the award conditions. Currently, agreements secure rights for a set period and continue unchanged if not renegotiated after the expiry date. Under the Liberal government’s changes, after the agreement expires, employers can terminate the agreement and put their employees on non-union-negotiated agreements that contain fewer and poorer conditions. And existing agreements are not able to be varied or extended once the bill is in place.

Australian workers deserve to have job security and decent working conditions, but the Howard government intends to strip them of both of these and more. This government intends to strip away the rights of workers and replace them with uncertainty and reduced working conditions, and the removal of job security—rights that workers, their parents and their grandparents fought for; working conditions and job security that Australian workers deserve. It will take away their freedom of speech to voice their opinion in the workplace for fear of the ramifications. I know this because I have already heard from workers whose bosses and leading hands are saying, ‘Wait until the IR changes go through.’ This is what is feeding the fear of many workers about the impact of the Work Choices bill—the everyday reality of what goes on in their workplaces.

Even today in some workplaces, workers are unfairly dismissed, workplace bullying exists and workers are fearful of claiming overtime that is rightfully owed to them. The current system is not perfect, but there is legislation in place which affords workers rights and protections. It is their choice as to whether they access those rights and avenues of protection and compensation. But the divide between rights and protection will be grossly widened with the introduction of this legislation. Workers have reason to be concerned about the changes. Some of the changes will be felt within weeks of this legislation going through; other changes will impact in the months and the years to come. The reality is that, in practice, under this legislation, most workers will not have access to unfair dismissal provisions. The employer will not even have to provide employees with a reason for sacking them. ‘Partly operational reasons’ are relatively simple to justify.

This government’s attack on the working conditions and rights of workers is an attack on the security of working families and the values of Australian society. It is an attack on the conditions and job security that we should be protecting for our children, for future generations. The bill will erode the rights and entitlements of workers, particularly for those who do not have strong bargaining power—the young entering the work force, single parents, the unskilled and migrants. The effects will be devastating—devastating to them and devastating to their families. The government argues individuals will be able to negotiate their own conditions, but the power of an individual to bargain with a new employer is less than the collective force of all employees.

Australian workers are worried, with surveys revealing more than 70 per cent of workers believe the changes are bad. The government has spent $55 million that we know about of taxpayers’ money to fund Liberal Party ads in an attempt to convince taxpayers, workers, that the changes will not hurt; that it will not hurt losing the Australian Industrial Relations Commission—the inde-
pendent umpire—penalty rates, holiday leave and redundancy pay; that it will not hurt losing the no disadvantage test that applies to current agreements, the fairness of the national wage case and the foundation of a fair system of enterprise agreements; that it will not hurt having your hours of work changed without reasonable notice, and losing the right to file for unfair dismissal with access to reinstatement and compensation; and that it will not hurt having the national wage case delayed and abolishing the annual wage increases made by the Australian Industrial Relations Commission. Australian workers are going to be the losers as a result of these extreme changes to Australia’s industrial relations system, and it will hurt both workers and their families.

The government talks about providing flexibility in the workplace. We do not need to change the laws to enjoy flexibility in the workplace. There already exists flexibility to improve work practices and receive higher pay. The employer can offer better than the award. The award is the safety net.

Under the current Workplace Relations Act there is nothing to stop workers negotiating better conditions with their employers. However, there is not the capacity to negotiate below minimum standards of wages and working conditions because we have in place the no disadvantage test. Workers have protection. But, under the government’s Work Choices, when a worker starts a new job, the agreement need only meet the Australian fair pay and conditions standard, which has fewer entitlements than the award, does not include overtime loading and penalty rates and would likely result in lower take-home pay and reduced working conditions. The changes proposed in this bill make it easier to cut take-home pay, dismiss workers without compensation and restructure the business. With rights and conditions reduced, the changes are nothing for workers to look forward to.

The government says the minimum wage will remain. But for how long will the minimum wage remain at the current rate? The Liberal senators opposite do not appear to understand what it is like to work for a weekly wage, to rely on penalty rates and overtime in order to meet the mortgage or rent payment, to pay medical bills, to buy shoes for the kids and to put fresh food on the table each day. They might know of people or have heard about people in this situation, but how many of them have sat down at their dinner table in recent times with people in this sort of situation? This bill denies Australian workers a choice to bargain collectively with their employer for decent wages and conditions. It denies the individual the right to reject individual contracts which cut pay and conditions and undermine collective bargaining and union representation. It says that it is okay for individual contracts to undermine the rights of workers under collective agreements and awards; that it is okay to eliminate overtime, penalty rates and shift loading.

The bill removes the role of the Australian Industrial Relations Commission in handing down the minimum wage decision and hands it over to the government’s so-called Australian Fair Pay Commission. Do you like the words ‘Fair Pay Commission’? We already know how the government views increases in the minimum wage. The Prime Minister says he stands by his record. We only have to look at the record. If the Howard government had its way, the minimum wage would be $50 a week less than what it currently is—that is, Australian working families on the minimum wage would be $2,600 a year worse off—$2,600 a year down on their annual pay packet. Had the government’s submissions to the Australian Industrial Relations Commission been awarded, the current
minimum wage would be $434.40 instead of the $484.40 that it currently is—$50 per week less without the decision of the Australian Industrial Relations Commission, whose role in these decisions under the new legislation has been removed. In four of the nine long years that this government has been in power, the government proposed a minimum wage increase less than its own inflation forecast. Had it been successful, it would have resulted in a drop in the minimum wage in real terms on these occasions.

And now, under the government’s new system of Work Choices, the next national minimum wage increase, which will be determined by the so-named Fair Pay Commission, will be at least six months later than normal. This means that Australia’s more than 1.6 million lowest paid employees will have to wait at least 18 months for a pay increase to be considered. And, unlike the current system, there is no requirement for the Australian Fair Pay Commission to have regard to fairness in providing a safety net for the low paid—either fairness in meeting needs or fairness in the context of community standards.

We know what the government thinks of this system. In October of this year, in a report by government senators on the workplace agreements inquiry conducted by the Senate Employment, Workplace Relations and Education References Committee, they told us:

... party senators take the view here that safety-net awards are probably too high—a matter to be addressed in the forthcoming legislation—and that this causes serious distortion in the wage structure, leading to discouragement of employment.

So this government does not shy away from saying that it thinks Australian workers on awards are already being paid too much. But the negative impact of the bill does not end here. It takes away rights from workers and their representatives and puts them in the hands of the minister. It prohibits workplace agreements from including what the minister—the Liberal minister—decides is ‘prohibited content’.

And it goes further. Under the bill it is an offence to even attempt to negotiate anything the minister—the Liberal minister—prohibits. And unions, as representatives of workers, can be fined $33,000 if they ask an employer to include a provision in an agreement that protects the workers from unfair dismissal—we are not talking about fair dismissal; we are talking about unfair dismissal—or for a commitment to collective bargaining. Only yesterday, in South Australia’s daily newspaper, the Advertiser, Kym Richardson, the federal Liberal member for Kingston, a marginal seat in South Australia which takes in the southern suburbs, including Morphett Vale, Christies Beach, Hackham, Christie Downs, Old Noarlunga and Reynella, said that a significant number of constituents feared being exploited under the new legislation. ‘Change and uncertainty are the two biggest factors of the hesitation towards the industrial relations changes,’ he said. And his Liberal colleague in the Western Sydney seat of Lindsay said, ‘The workers’ concerns are they will be exploited.’ So here we have two Liberal members of parliament using the words ‘uncertainty’ and ‘exploited’ in relation to the Work Choices bill.

So the Liberal government introduces legislation which will impact greatly on the lives of working Australians. The federal members receive hundreds of emails and letters of concern. They know thousands have signed petitions, they see tens of thousands of people, their constituents, many of whom voted for them, on their television screen standing united against the legislation in their respective cities, and they are worried. So, what do they do? They suggest es-
establishing a hotline to dob in the bosses. Let us consider how this hotline might work. The worker rings up, leaves their name, provides details of their workplace, the name of their boss and their concerns. A new departmental inspector is given the information. The complaint is investigated. The boss gets wind of it. The worker gets sacked, not that week but within a short time. Where is the worker’s right to unfair dismissal? It is gone. It does not exist because the Liberal government stripped it away. The boss will not come out and say that employees were sacked for their actions but, under the new legislation, partly operational reasons will suffice.

The member for Kingston and the member for Lindsay know that the workers, their constituents, are concerned about the changes to the workplace legislation. These workers needed their elected representatives to vote against the government’s extreme changes that will impact on their conditions and pay. But, along with their Liberal colleagues, they supported the changes and many workers and their families will suffer because of it. Labor will fight for a strong safety net of minimum award wages and conditions, for an independent umpire and for proper rights for workers who are dismissed unfairly. Labor will stand up for the right of workers to bargain collectively for decent wages and conditions and for the right to object to individual contracts. (Time expired)

Senator MOORE (Queensland) (11.37 am)—I am very proud to stand here this morning to speak in opposition to the Workplace Relations Amendment (Work Choices) Bill 2005. It is always important to be very clear at the start about which way you are thinking on any form of legislation. Just for the record: I am opposing the falsely named Work Choices bill. We have heard on numerous occasions in this place about the use of language. Here we have a piece of legislation that purports to talk about choices for workers—and not just workers who are working now but workers into the future in this country. My first point of opposition is that I oppose the title. It is wrong, false and misleading.

Mr Acting Deputy President, you know that in this place I try very often to find areas on which we can all agree. As a representative of the people of Queensland, I consistently look at legislation that comes before the Senate to consider where we, across the whole range of government, opposition and smaller parties, can find agreement. I try and find areas on which we can work together so that we can come up with legislation about which we can stand proudly before the people who vote both for us and against us and say, ‘We are taking these actions for Australians.’ But on this particular piece of legislation I cannot find any common ground.

This is one of the few pieces of legislation that has come before the house in the short period since I was elected where there is such a great gap between the positions being taken by the government and those on this side of the house that it is actually a threshold piece of legislation. There is no agreement on the values basis on which the decisions have been put forward. On the content, the background and the whole philosophical basis, there is so much difference that there is no common ground. There is but one action for people on this side of the house to take, and that is to oppose it.

But I think it is important to give some indication on the record of exactly what the opposition means. There are so many things about this process that I find not just wrong but offensive. I will begin with my frustration about the way the people from the government, rather than argue the value of the legislation, consistently seek to label and attack the people who think differently to
them. Of course, that can be seen as ‘robust debate’ and I have heard it described as such. I do not agree with that term. There should be at least some mutual respect. People can disagree but treat with respect the people with whom they disagree.

But in this place, through hours of discussion, both in this period of debate and in previous ones, about the best the government can do when talking about people from this side of the house who think differently to them is to call us union hacks and to say that we are but dancing to the tune of our masters. Perhaps sometimes I do dance, but not to the tune of my masters—I reject the term ‘masters’ and I reject strongly any allegation that people on this side of the house are mastered by anyone.

I am a proud trade unionist. I have been one from the time I commenced work in the Australian Public Service. I was a member of my trade union and then I was fortunate enough to be elected as an official to the union that serves the Australian Public Service. Yes, I am one of those people on this side of the house—I forget what the total is this morning, but I am aware that there are a high number of us—who proudly and publicly say, without any hope or intent of trying to cover it up, that we have worked as trade unionists. That is a great job. It is a job that carries with it a degree of respect and responsibility. It is one that I think should be understood and respected rather than used as some kind of criticism.

Senator Kemp—And it carries with it the prospect of a Senate seat.

Senator MOORE—Not in my case, Senator, but I don’t know about others. But we do not label people from the other side of the house. We do not tend to presume that, just because they have a certain employment background or philosophical background, they have not got the capability for independent thought. So one of the first things to which I object—apart from the erroneous title of the legislation—is the tendency to use personal attack rather than to look at the actual arguments we should be discussing. On that basis, I say I am a trade unionist and I am proud of it. I think there is something we can all learn from taking on representative roles. It should not be a term of abuse.

With regard to the process we are working with in this place, the thing that most appalls me about what has happened in this discussion about industrial relations is the sham attempt at consultation through the committee process. I will not go into detail here, because we have heard numerous people who sit on the relevant Senate committee talk about how they felt betrayed by the lack of time, the lack of understanding and the lack of genuine respect that was given to the large number of Australians who wanted to partake in the Senate committee inquiry.

We should have known that was going to happen, because when the committee was reluctantly formed—and I state again that it was reluctantly formed, because I think there is some understanding of the background and the strong history of Senate process—the very first step was to list all the issues, the key industrial issues, that could not be discussed, that were withdrawn from the terms of reference. I am surprised that the terms of reference did not just say, ‘Please come in and agree with the government.’ That would have been the expectation of the government in putting them together.

There was a very short time for members of the community to put forward their concerns, their arguments, about what was of value and what was not of value in the new Work Choices bill. At the end of that time, unsurprisingly, a report was put out. We got it only at the beginning of this week. That is a very short time for people to be able to see
exactly what the key arguments of the debate are going to be. But we did get it and it has been widely circulated and, to no-one’s surprise, there are differing opinions that come out in it.

The really sad part about all those comments is the fact that there is no way that the government can pretend that they have not been informed about the concerns that the Australian people have. I am prepared to say that they may not understand them, but there is no way that they can say that they do not know about them. Anyone can see by looking on the parliamentary committee’s web site the wide range of community organisations, employer groups and employee representatives—citizens of the country—who were concerned about how this legislation will impact on them and their families into the future.

One of the issues that came up the most was not only concern about what is happening now but also concern about the fact that, as a result of the current electoral position, this legislation will get up. There was an understanding that that will happen and that will mean major changes to the way that industrial relations operates in this country. Overwhelmingly, the issue that came up for me in reading the many submissions was that people are afraid for their families into the future. They wanted some kind of statement or understanding from their government that the issues that they were raising were not just to be dismissed, tossed away or talked about as just ideological difference. They wanted an understanding about the major issues.

We have heard from other people concerned about the issues of security in the workplace. That came up consistently. These people were concerned about appropriate wage rates and penalties. We have heard so much evidence about the way people in our community are totally reliant on those supplementary payments that they receive on top of their core wage. The government seem to understand only the concept of a flat wage. They have no understanding about the various things that come together to form your weekly, fortnightly or monthly income, depending on how you are going to be paid. That is an issue in itself. No-one is quite sure exactly how people will be paid under the new arrangements. There is no clear commitment on how people are going to be paid—that is, weekly, fortnightly or whatever. That regular payment is the lifeblood of so many Australians. They live from payday to payday. Some of them manage so effectively that, when we are fortunate enough to meet with them in our work and also in the committee process, their stories about the way they manage their lives are astounding. Every cent is accounted for. The way that this legislation can—not may or not even will, I hope—affect that security is genuinely terrifying for many Australians. People were seeking some reassurance from the government about security.

With regard to the general process, one of the most frustrating aspects of the last couple of months from my point of view has been the number of people who have spoken to me and said, ‘We didn’t know they were going to do this.’ You learn very quickly in this job not to speak immediately but to take a breath and then give a response—and that is what I had to do when people said that to me. Of course the government were going to do this! There was no doubt. We knew that just from reading the histories of various people in the Liberal Party-National Party coalition at the moment—and from the histories of many people in government going back prior to the early eighties. We know that there is a strong commitment to deregulating the work force. For them, that means taking away any regulation or obstacle or anything that will put barriers around the open market freedom
of any activity—in this case, the work force and the way industrial relations operates.

Regulation is seen as obstruction by many people who are arguing to bring in this legislation. Any form of law or protection is seen to automatically be in conflict with the concept that is most regularly promoted as the most important thing in this new change, namely, the ‘I’ word—that is, ‘flexibility’. The master of this legislation is the term ‘flexibility’. Anything that can be perceived to impede open flexibility in any way is seen as evil and to be destroyed. The process that we have to follow here is working with the community to ensure that they understand their entitlements and their rights as workers. That key element is lost in this legislation. In the quest for flexibility, there is an open presumption that there is an equal powerbase in every workplace—that is, that employers and employees will be able to sit down together in an equal and open arrangement and be able to effectively negotiate all their conditions of service, their wage expectations and their future employment options. That is a situation that we could all seek.

We have heard the paean of praise from so many government senators when they talk about how many jobs and how few industrial disputations there are at the moment and how strong the labour market currently is. All these things are being valued strongly by the government before they impose the Work Choices bill. One would ask: if things are going so well, why is there a need to implement such an overwhelming change? In contributions we have heard in this place, we hear that in the past people on this side of the house have consistently argued against any industrial relations changes brought forward by the government and we have been told that, despite the opposition that we have put forward and despite the arguments that we have raised about people’s workplace conditions, the sky has not fallen.

That is true. However, the workplace changes that are being recommended in this piece of legislation are very similar to those that the government wished to introduce in this place in 1996 and were not able to because of the very extensive Senate process which resulted in numerous amendments to what was then on the table. We on this side of the house and those in the community did argue at the time against many of the same things that are being put forward now, only this time the proposed changes are at an even greater level. We used many of the same arguments about the impact of workers’ security and workers’ families as we are using now. The key point, which we need to state so often—and I never tire of stating the issue—is the need for respect: respect for people as individuals, respect for people as workers and respect for people as employers. But that issue is not anywhere to be seen in this legislation. It is not in the legislation and, to the best of my knowledge, it is not in the unwritten, yet-to-be-seen regulations, which we yearn to see so that we can see what all the detail is going to be.

The government is committed to having simpler legislation and structures—we hear that regularly. As an ex public servant, one of the real tests you apply when you are looking at legislation is to see, first of all, whether it is simple to read. This one does not pass that test; this legislation is not simple to read. One of the expectations was that this was going to make people’s access to understanding their rights much easier. I encourage people to have a look on the internet and read this legislation and, then let the government know whether you understand exactly what your rights are—either as an employer or as an employee. Read the legislation. But, if you find the legislation a little confronting, go to the explanatory memorandum, because another little trick you learn is that when the explanatory memorandum is
bigger than the legislation you have a bit of a problem on your hands. And that is the case with the Work Choices bill. To wade through the Work Choices explanatory memorandum is not a simple task. I accept that legislation is complex. I accept that this is a very difficult change. But one of the arguments being put forward, consistently, about why we need this change is to make it simpler, to make it more accessible. I am not a lawyer—I would be proud to be one, but I am not—but I tender exhibit A: the legislation and its explanatory memorandum. This is not a simple piece of legislation. It does not meet that particular test.

I talk to the community people who come to see me—and I know that there have been efforts to lobby people from the government as well—raising the concerns that I mentioned earlier. I know that you have heard them, although I remain unconvinced that you have understood them. When people come, I ask them about how they found the government advertising campaign. We have been blessed by the government’s advertising campaign: a $55 million—and rising—advertising campaign, plus the supplementary efforts by various employer bodies that we have received in our mailboxes and on our TV screens, particularly during the cricket. In this one we are seeing the happy, smiling faces and, again, dancing in the workplace—I wonder where all this dancing comes from, sometimes. In terms of the process, at least this time the message was ‘Just trust the government’. I think we could get rid of everything else; the message was ‘Trust the government’. I am not convinced that message has been heard. The only good thing I can say about this advertising campaign is that it has not caused me to dislike one of my favourite pieces of music, which a previous advertising campaign did—the campaign on the GST. I actually applaud the fact that they did not take away one of my favourite pieces of music this time.

There are so many arguments against this legislation. I would like to mention the issues to do with women, although I know previous speakers have spoken about the major concerns they have about how this legislation will impact on women. In my first speech in this place, I talked about Emma Miller from Queensland, who is one of the founding mothers of trade unionism and the peace movement in this country. Each year in Queensland we celebrate women in trade unions through the Emma Miller Awards. And every year we have unions nominate women from their membership to celebrate with them achievements they have had in their workplaces and in their lives, linked to their union.

When we had the Emma Miller Awards a couple of weeks ago, we had eight women standing up to say, ‘Thank you. I represent my union, and this is what it means to me to be a unionist.’ They talked consistently about the values of solidarity, of working together to form something stronger. I know that Senator Faulkner quoted last time, ‘United we bargain, divided we fall,’ which is something that is an important value base. In terms of the difference I noted at the beginning of this contribution, there is such a difference, a gap, in the value bases between the government and opposition on this point that it is impossible to find common ground.

As the women were speaking about what it meant to them, they were talking about how their history affected how they saw their futures. They stated that they felt that the contributions that the Australian workplace system had achieved over the previous years were of value to all Australians. They talked about the issues of maternity leave and paternity leave and their ability to obtain those in their workplaces. The fact that these hard-
won conditions can in any way be at risk is a deep worry to very many people. It is beyond a philosophical difference. It is something which should be guaranteed for workers in the Australian community.

We should have work choices in our community. No-one from this side of the house wants to necessarily impose conditions or wages that would be harmful or destructive in any way. What we want are these work choices to be cooperatively decided, rather than imposed on people with the threat that, if you do not work with this choice, you will not have the choice to work. (Time expired)

Senator McEWEN (South Australia) (11.57 am)—I am proud to stand here today and say that Labor opposes this bill, the Workplace Relations Amendment (Work Choices) Bill 2005. I am also proud to say: yes, I am a fully paid-up member of my trade union and, yes, I was a trade union boss. Over here, on this side, we cannot wait for the day that Labor Prime Minister Kim Beazley tears up this legislation and throws it in the bin. And there will be a queue of Labor senators ready to throw the match that will incinerate it.

Once again, this government is arrogantly using its majority to ram through extreme legislation that the people of Australia overwhelmingly reject—despite the fact that the government spent $55 million of taxpayers’ money trying to make people accept it. Once again, the government is treating the Australian people with contempt so that the Prime Minister will see realised his lifelong dream of wrecking an industrial relations system that is based on the core principle of a fair go for workers. His ancient, tired, patronising vision for Australia is about to come true. His vision of Australia is of an Australia where the wealthy and the powerful get more wealth and more power, and the poor and the vulnerable hold out their hands and hope for some crumbs. The government attempts to defend its decrepit view of the world with rhetoric as tired as the legislation—

Senator Kemp interjecting—

Senator McEWEN—with rhetoric as tired as Senator Kemp’s blathering on about unions. But Australians are not buying the government’s claims that their new system will be flexible, simple and fair. Australians are not buying the Prime Minister’s weasel words about his record being his defence when he is asked a hard question about whether or not any Australian worker will be worse off as a result of this legislation. Australians did not buy those happy, smiley people in those $55 million adverts and they know that this is sneaky, nasty and bad legislation.

We are told that Australia needs these new industrial relations laws, despite the fact that there is no solid economic evidence to support the alleged benefits of this legislation. And none of the submissions to the all-too-brief inquiry into this legislation provided any sustainable reason for needing radical change to our system of workplace regulation. Indeed, those opposite keep telling us things are good under the current system: wages have increased, they say; unemployment is down; and industrial disputation is at its lowest level for 90 years. They conveniently ignore, of course, that, if the Howard government’s submission to the annual safety net adjustment wage case were taken on board by the Australian Industrial Relations Commission, Australian workers on the minimum wage would have been $2½ thousand per year worse off. If things are so good, why do we need these radical changes; why do we need these extreme changes?

There is no justification in precedent outcomes, either. Where similar laws have been
tried before, close to home in Western Australia and New Zealand, there was not some economic nirvana as a result, certainly not a social nirvana. More New Zealanders than ever flocked to Australia, where they could earn a reasonable wage. The Western Australian Labor government did not hesitate to repeal that state’s Liberal government workplace relations laws that were supposed to deliver an economic bonanza in that state. Instead, those Liberal laws drove down wages so that Western Australians ended up with a minimum wage $50 less than that in the rest of Australia, a position that the Western Australian government is successfully addressing by restoring balance to the workplace relations system in that state.

There is no justification for these changes, because this legislation is all about driving down wages. It is about putting more power in the hands of employers and destroying collectivism and community in the workplace—that is, the principle of working together in a collective, the principle of everybody helping each other so that everyone benefits, particularly those who need assistance. It is not a principle that those opposite care for. It is not something they are remotely interested in. They prefer a dog-eat-dog world where the industrially weak and economically vulnerable get stomped on and then get patronisingly told it is good for them. If this workplace relations legislation is not enough of an indication of that, you only have to look at their so-called Welfare to Work legislation, which will punish people for being disabled or single supporting parents.

Of course, of all the rhetoric and weasel words we hear from the government, it is the ‘choice’ bit of Work Choices that is the most galling. This government has a peculiar interpretation of ‘choice’, I have to say. Under this legislation, more than 3½ million Australians will have no choice if they want to take action because they have been unfairly dismissed. And, if Senator Barnaby ‘Doormat’ Joyce thinks an amendment that says workers cannot be sacked for refusing to work on Good Friday or Christmas Day is going to actually protect—

**Senator Ian Campbell**—Mr Acting Deputy President, on a point of order: could I have you rule on whether it is appropriate to put the word ‘doormat’ in front of another honourable senator’s name, or is that against standing orders?

**The ACTING DEPUTY PRESIDENT (Senator Chapman)**—I would suggest that it is unparliamentary to refer to an honourable senator in that way and I ask Senator McEwen to withdraw that comment.

**Senator McEWEN**—I withdraw that comment. And I say that, if that doormat, Senator Barnaby Joyce, thinks an amendment that says workers cannot be sacked for refusing—

**Senator Ian Campbell**—Mr Acting Deputy President, on the point of order: the senator is now defying your ruling. Could you either ask the senator to respect your ruling and withdraw her comment unreservedly, or take relevant action under the standing orders.

**The ACTING DEPUTY PRESIDENT**—Senator McEwen, I had an indication from you that you were withdrawing that comment, but then you proceeded to reinforce it.

**Senator George Campbell**—Mr Acting Deputy President, on the point of order: I can understand Senator Ian Campbell’s sensitivity—in fact, he has been extremely sensitive over the past two days in this chamber—but, if you would like to go back and look at the record, I think you will find that the word ‘doormat’ has been used consistently in this chamber for a very long time, particularly in reference to Senator Alston, who was constantly referred to as a doormat. Not once
was the use of that language ruled as being unparliamentary. So I would ask you to check the record to see whether or not your ruling is in fact correct.

The ACTING DEPUTY PRESIDENT—
I have ruled that it is an inappropriate reflection on a member of this chamber, and I would ask Senator McEwen to withdraw it, as she indicated she was doing but then proceeded to reinforce it rather than withdraw it.

Senator McEWEN—I withdraw my comment about Senator Barnaby Joyce. If any of the doormats over that side of the chamber think that an amendment that says that workers cannot be sacked for refusing to work on Good Friday or Christmas Day is going to actually protect anyone, they are living in la la land. Of course no employer will admit that that is the reason for sacking someone; they will invent some excuse like work performance, a lack of work or a restructure. And, if they have got 100 or fewer employees, there is nothing a worker can do about it.

Workers will not have the choice of staying on an award if their new employer offers them an AWA. Workers will not have the choice of including some things in their workplace agreement, whether individual or collective, even if their employer agrees to it. There will be plenty of choice for the minister, though—plenty of choice for the Minister for Employment and Workplace Relations. He can choose to outlaw whatever he likes if parliament agrees to it, and that bunch of doormats over there will undoubtedly agree to whatever the minister wants to put in his regulations.

There will be no choice to be in a collective agreement if your employer refuses to negotiate with you and your workmates. There will be no choice to stay in a state industrial relations system because it is simpler, cheaper and easier for workers to access. And there will be no choice if you start at a new workplace where the employer has negotiated a greenfields agreement with himself—and, if the government accepts the recommendations of its mates to extend greenfields agreements to five years, you are going to be stuck with those conditions for five years. There will be no choice for employers when they get caught in the race to the bottom that this legislation will inevitably lead to. So much for choice: 1,250 pages of amendments and explanatory memoranda that say that people will actually have less choice.

Talk to representatives of working people and they will be scratching their heads about some of the garbage that has been spouted by the government as justification for this legislation. Take for example the statement that the award system is inflexible. The inference is that somehow awards prevent employers from rewarding their staff for a job well done or from offering family-friendly arrangements to employees. Awards are only minimum standards. Admittedly, they are much better minimum standards than what the government wants to replace awards with via its take-it-or-leave-it AWAs, but under the current system employers only have to pay the minimum. If they want to pay more under the current system, if they want to give better provisions under the current system, they can.

In my experience as a union official, employers have always been able to pay more, give bonuses or extra conditions, or accommodate family needs. They can do this within the current system of awards and agreements. For example, in local government in South Australia there are huge skills shortages in some areas of expertise like planning and environmental health—no doubt some of those 195,000 skilled jobs that the government has been unable to supply. Employers in that industry offer a range of
above-award incentives—including wage supplements, flexible start and finish times and working from home arrangements—to attract staff to those jobs. And that is not unusual; it happens in heaps of other industries. If employers want to offer Rolls Royce employment conditions, the award system is not stopping them.

Then there is the furphy about simplicity. We are told the new legislation will streamline things for employers—but it will not. This legislation is bureaucracy gone mad. Under this legislation, Australian employers will have to come to grips with a plethora of regulatory and adjunct organisations. These include: the Office of the Employment Advocate to ‘approve’—and I use that word loosely—agreements; the Australian Industrial Relations Commission to conciliate disputes, but, sadly, no longer to run test cases that in the past have won family-friendly provisions such as maternity leave and redundancy pay for all Australian workers; the Federal Court to interpret laws and undertake prosecutions; the Fair Pay Commission to make recommendations about minimum wages and conditions; and the government, which might or might not accept those recommendations.

And the list goes on: there is also the Office of Workplace Services, the Department of Employment and Workplace Relations, the Building Industry Taskforce and alternative dispute resolution providers. And all of that is because this government cannot bear the fact that the Australian Industrial Relations Commission is an independent organisation that operates as an umpire in the world of work. It is because this government is obsessed with smashing the trade union movement. It is because this government wants to centralise control over Australia’s industrial system and give its minister the right to intervene in legitimate workplace bargaining. It is because this government wants to replace the relatively user-friendly state industrial relations systems with a convoluted, complicated, adversarial federal system. It is because this government has, in nearly a decade in office, harboured a long-held desire to wreck the Australian concept of a fair go at work.

Employers are already confused and worried about what is coming. If that list of potential agencies and organisations that I referred to previously is not enough to make the average employer reach for their lawyer’s phone number, many employers will now also have to grapple with new complications, including whether or not they are constitutional corporations. In this regard, I would like to bring to the attention of the Senate a matter brought to my attention by the Local Government Association of South Australia—an employer organisation representing 68 councils that employ, collectively, more than 8,000 South Australians. And, yes, Senator Abetz, over on this side we do talk to employer organisations as well as to unions, churches and community groups. We are not spooked by employer organisations—unlike you, who are apparently spooked by trade unions.

The Local Government Association of South Australia is an employer organisation with extensive industrial experience and expertise. I know because, in my previous life as a trade union official, I came up against the considerable experience and expertise of the LGA on many occasions. On 22 September 2005, the LGA wrote to the Minister for Employment and Workplace Relations, Kevin Andrews, noting that under what was being proposed, and taking into account the decisions of authorities such as the High Court, it was likely that some of its members—some of those 68 local authorities—would be considered to be constitutional corporations and some would not. Within one industry, in one state, providing essen-
tially the same services to the community, some employers would be under one award and some would not. Some employees would be on one set of conditions and some would be under a different system. Smaller councils, particularly in rural and regional communities, would be dancing on the High Court tightrope trying to work out whether or not they are constitutional corporations.

It is not a scenario that members of the Local Government Association of South Australia want to see. Life is complicated enough in local government without this. Local council communities do not, I am sure, want to be forking out for High Court challenges. So how did the minister respond to the LGA? In his letter to the LGA dated 28 October 2005, Minister Andrews said: ‘If you have not already done so, you may wish to seek legal advice on the status of the local councils you represent.’ How very helpful. How very condescending. How useless an answer is that? How useless is it to tell a peak employer body representing nearly 70 employers, thousands of employees, and with lawyers on tap, ‘Go and get some legal advice’? They have had the legal advice, and the answer is: a legal minefield is in the offing. What an arrogant, condescending response from the government to a worried employer organisation.

That response is almost as condescending as the comments that this legislation will be good for families, and that it will help people balance their work and family responsibilities. How can you possibly claim that a bill that is intended to drive down wages is going to be good for families? How can you say that making it easier to sack people for no reason is good for families? How can you possibly say that working on a take-it-or-leave-it AWA with no penalty rates—regardless of whether you work weekends, weekdays or nights—is good for families?

Most of the organisations and individuals who made submissions to the very brief inquiry that this government deigned to allow know that this legislation is going to be bad for families. For example, the Uniting Church of Australia, in its submission to the Senate inquiry, said:

We believe that the Government’s new minimum conditions of employment are not adequate and will not be effective in maintaining an appropriate standard of living for low-paid workers and their families. Lowering the floor for working arrangements, failing to include greater protections and resources for workers on individual agreements, and encouraging an approach wherein personal litigation in the Federal Court is the only means of redress for these workers will impact heavily on these vulnerable people.

And there was this contribution from the Australian Catholic Commission for Employment Relations:

The AFPCS—that is, the Australian fair pay and conditions standard—does not constitute a fair minimum standard for the purpose of workplace negotiations. The departure from the current safety net would expose many low paid and industrially weak employees to inequitable bargaining that will impact on their terms and conditions of employment and, consequently, their ability to support ... their families.

If the government members opposite will not listen to the submissions from academics—who they appear to despise and revile, if Senator Abetz’s comments during question time are any guide—and union representatives, you would have thought they might at least listen to the churches. But it appears the appeals of the churches to the government to revisit this terrible legislation have also fallen on deaf ears. Certainly, Senator Santoro heard the churches: he told us all about it yesterday. But apparently he did not like what he heard and so he discounted what the churches said. That is typical of the arro-
gance we see every day from this government.

Many people, including senators opposite, say that not all employers are going to line up to grab the chance that this legislation gives them to drive down wages and conditions. Of course that is true. I agree that most employers respect and value their employees and attempt to reward them appropriately. But some employers do not treat their employees fairly, and that is one of the reasons why we have laws in the first place: to protect those who need protection. As has been mentioned by my colleague Senator Wortley, the member for Kingston, in South Australia, Mr Kym Richardson, has apparently acknowledged that employers do not always act appropriately, because he wants to set up a hotline in his electorate office to take phone calls from workers fearful of being exploited. I hope his staff are ready for it. No doubt they will be happy to work all of the hours required, without penalty rates or breaks, to answer the calls from Mr Richardson’s constituents. I hope they work under the same conditions the people Mr Richardson purports to represent will have to work under when this legislation comes into place.

Heaven knows the current Workplace Relations Act is hardly a great piece of legislation. It is deficient in terms of protecting workers in many respects. But this new raft of legislation means that many otherwise good employers will be engaged in the race to the bottom. In competitive industries like cleaning, hospitality, retail or transport what an employer pays in wages vis-a-vis what their competitors pay can mean the difference between the survival and the demise of their business. I know that. When that new restaurant down the road opens up, with all its staff on AWAs that have no penalty rates and pay only the minimum wage, what do you think is going to happen to the other restaurants on the strip that have tried to pay their employees a decent wage? They will not be able to compete and will be forced to cut wages if their business is to survive.

Welcome to the world of tipping. Welcome to the American way where, yes, there are plenty of jobs—it is just that not too many of those jobs pay enough for people to live a decent life on. Welcome to the world of hospitality workers, hotel cleaning staff, security staff, cab drivers and delivery drivers having to grovel for tips to survive. Welcome to a world where the minimum rate of pay does not move for years at a time. Welcome to Mr Howard’s arcane world of poverty and privilege. Welcome to the nightmare that this legislation will visit on Australia.

Senator ADAMS (Western Australia) (12.18 pm)—Firstly, I do not consider myself or my colleagues doormats, as referred to by Senator McEwen. We are here to support legislation we believe in, legislation which will give all Australians choice in their many and varied workplaces.

As a Western Australian farmer, I intend to speak from a rural perspective in support of the Workplace Relations Amendment (Work Choices) Bill 2005. Virtually no sector in the Australian economy or community has undergone more change in the last 30 years than the agricultural and pastoral sectors, and I would venture to say that no sector of our community understands better than the Australian farming community that Australia now competes on a global basis for export markets. For primary producers, the proposed industrial relations changes are both necessary and vital to the ongoing viability of Australia’s agricultural and pastoral industries, and there is widespread support amongst industry bodies such as the National Farmers Federation for the passing of the Work Choices bill.

There are several points which need to be understood in terms of how this legislation
may impact on the farming community. Firstly, approximately 90 per cent of farms are either partnerships or sole trader entities, which would not have access to the new system unless they became an incorporated entity. For such non-incorporated primary producers, the government has put in place a five-year transition period which will allow each farmer ample time to understand the implications of the legislation on his or her individual business. During this time, they may decide that it is worth while to incorporate part of their business for the purpose of employing people, by setting up a separate incorporated entity. I note that the National Farmers Federation is recommending that farmers establish a company for employment purposes so that the remainder of the farming business may seek to maintain its tax benefits under the Farm Management Deposit Scheme.

Ultimately, it will be up to each primary producer to make a decision about whether or not their business needs to become incorporated, either wholly or in part, to fully access the benefits of the new industrial relations system. The government will undertake a comprehensive educational process for the farming community during the five-year transition period in order to ensure that all primary producers are fully aware of the implications of the new system for their particular enterprise. Much also depends on whether or not the state in which a farming entity operates refers its industrial relations powers to the Commonwealth. Victoria has already gone down this path, so Victorian farmers will have access to the new industrial relations system as soon as it becomes law, as will those in the ACT and the Northern Territory.

Western Australia, my home state, has signalled that at this stage it is unwilling to cede its industrial relations powers to the Commonwealth. The five-year transition time gives WA farmers ample time to decide on their best business option if the Western Australian state government maintains this position—a position, I might add, that shows just how much deference is paid to the wishes of the union movement by the Gallop Labor government. That they are prepared to pander to the unions by retaining—

_Senator George Campbell interjecting—_

_The ACTING DEPUTY PRESIDENT (Senator Chapman)—_Senator Campbell, you know that interjections are disorderly and contrary to the standing orders.

_Senator ADAMS—an outmoded, clumsy conglomeration of state industrial relations laws rather than move ahead under one simpler, fairer system beggars belief. Farmers in Western Australia will no doubt be hoping that for once the WA state government will put the farming community’s interests to the fore by referring its industrial relations powers to the Commonwealth so that farmers can remain unincorporated and access the Work Choices system._

Any employment relationship should be based on trust, mutual respect, understanding, flexibility and fairness. Wages and conditions should be negotiated and agreed to at the enterprise level, taking into account the unique circumstances of that business, be it a workshop, supermarket or farm. Fairness is best ensured by a system which is easily understood so that both employers and employees know what they need to do. Rural Australians and the Australian economy have adapted well to workplace changes over the last two decades. Economic reform has produced benefits. The experience of the last 10 years is a testament to this. Since 1996, Australia has achieved 1.7 million new jobs, the lowest unemployment in almost 30 years, and real wage growth of 14.9 per cent compared to 1.2 per cent in 13 years of Labor.
According to the National Farmers Federation, many farmers are currently required to work under two industrial instruments and they are paying high costs just to keep up with the compliance aspects of the current system. This in itself is not fair. However, the Howard government’s Work Choices bill offers a true choice to both employees and employers to attempt to solve this problem. Employers and employees will be able to remain under the award system if they choose to do so or if it is a less costly option than moving to a new system—an important consideration for those farmers who employ workers on an irregular basis where there is no cost benefit to negotiating a workplace agreement. This flexibility in workplace relations will allow farmers in Australia to choose a system that suits them—one where they can minimise costs according to their own unique set of circumstances.

The Pastoralists and Graziers Association of WA, who were debating the industrial relations reforms at the National Farmers Federation Conference in Launceston yesterday, have also indicated that they will support reforms which encourage small business operators to live and work in rural, regional and remote Australia. These small business people need a simpler system of industrial regulation which makes it easier for them to employ and retain people—a system that is easy to understand and interpret, gives certainty to all those party to agreements or contracts, is easy to administer and does not add unnecessarily to the cost of doing business. I commend the Workplace Relations Amendment (Work Choices) Bill 2005 to the Senate.

Senator LUDWIG (Queensland) (12.26 pm)—I was caught unaware by the shortness of the previous speech, but I appreciate that I now get an opportunity to speak for longer. The Workplace Relations Amendment (Work Choices) Bill 2005 sums up what kind of a government we have in power today: an extreme, out of touch and arrogant government that is growing even more so every day. It fails to listen to its own constituency and even to its own coalition partners such as the Nationals in Queensland, who also find this legislation intolerable.

Let us first consider what this bill is not about. This bill is not about making the Australian industrials relations system better or simpler, and anyone who thinks that it does has been taken in by the cheap rhetoric of this government. If the Howard government were genuine about industrial relations reform, it would have consulted with the state government representatives, small businesses and unions to negotiate an outcome. We all know that the idea of a unitary system has been around for a while. There are reports on it, going back to Sweeney in 1975 and Hancock in the eighties. But this government thinks it knows best, it seems. It should have taken a leaf out of those two major reports and developed a consultative model to do the same.

In the decent economic analysis that I have seen, none of it—in fact, I have not been able to find any—backs up the government’s absurd claim that these changes will bring about an economic paradise with thousands of jobs. I am happy to be corrected. If you can find any such analysis, table it. There is no evidence to support it. Let me repeat that: none, zip, zero, nix, nought, nothing. Instead, the government have chosen to take the most extreme path possible and they will try to smash the states, regardless of cost or consequence.

Christians have a great saying: as ye sow, so shall ye reap. This government will reap the dividends of their extremist approach. If the states will not be consulted now, they will do their consulting in the courts. The results will be a series of court challenges that could potentially last for years—perhaps
until 2010 or 2011. The result will be the states’ refusal to cooperate on non-incorporated businesses and on state public services. There will still be no achievement of a unitary system. There will still be seven industrial relations systems. The primary demand of business is certainty, yet what this extremist bill delivers for business is five to six years of uncertainty—and that is just the beginning of it.

Consider this: does anyone really believe that the Howard government—with their hopeless grab bag of ministerial incompetence, their internal factional strife that we saw played out so brutally and viciously in the case of John Brogden, and their internal leadership strife between the death grip of the Prime Minister and his wishy-washy, will-he-won’t-he Treasurer—can stay the course through the next election, let alone maintain the momentum to ensure that the industrial relations system that they think will work will actually work, or will they take their hand off the tiller and concentrate on their internal factional bickering and let it slide? I take the latter as the likely outcome.

And consider this: what will the Labor government do with this nice little package that the government has delivered for us? Tear it up! That is what we will do. We are warning you now because we do not want to be responsible for the years of industrial uncertainty for business that you are creating with this divisive and extremist legislation. Senator Ian Campbell, I hope you are also going to contribute to this debate. Let every small business owner—because I know you have been a champion of those in the pass—every franchisee, every self-employed person and every entrepreneur know this: this extremist Liberal government is foisting years of uncertainty on businesses throughout Australia.

This bill is not about making life for Australians easier or better; this bill is about taking basic rights away from workers. This bill strikes at the very foundation of this country, which is fairness, all because of one man’s tired old dream—a dream for him but a living nightmare that does not belong in the 21st century and a dream that does not fit in with the challenges that Australia now faces. Some conservative commentators have pointed out that there has been a lot of hype about the impact of this bill, and the government has been quick to mouth soothing words. I have heard these soothing words: ‘Come into the warmth.’ It sounds to me more like an invitation into a spider’s web.

While we are all enjoying the sunshine provided by 13 years of the Hawke-Keating Labor government and the greatest economic reforms ever undertaken in this country, let us consider the future. Here is a fact: markets fluctuate. To everyone paying off a mortgage, to every parent, to every worker in a factory, in the fields, in the office, on the salesroom floor, on a boat or on a rig, to the timber workers and fishers, to the traders and brokers, to the bartenders, dishwashers, cooks and cleaners, and to the call centre workers, let me put this question: how will you go when times get tough under this government’s industrial relations package? How will your conditions last when it is time to renegotiate your contract and there are 10 others after your job who are hungry for it, hungry enough to take anything on offer to get a foot in the door? How long will it take before the employer comes to you with one hand clasped in the other and shoulders hunched over saying: ‘Look, the competitive pressure’s getting to me. I have to drive your conditions down to stay competitive, to stay in business, but any job’s better than none’? That is one of the matters the employers will come to you with.
It is a race to the bottom. Will employees lose their weekends? Will they be marked because they dare to complain about unpaid overtime? This legislation allows reasonable time to work but does it allow reasonable time to stay at home and have family time? Will it reasonably allow you to say no to an employer and not face the sack if they have fewer than 100 employees? Will it reasonably allow the employer to not indulge in intimidatory tactics?

Ever since this long-running debate on IR began, Prime Minister Howard has repeatedly refused to guarantee that no individual Australian employee would be worse off under his extreme industrial relations changes. That is because he cannot. He knows the truth, as does every member of the Liberal Party and the coalition in this country. That is why he is spending taxpayers’ money like a drunken sailor, throwing it at any TV station, radio station or newspaper that will run an ad—$55 million worth of it, and I suspect more to come. There is an old saying that the bigger the lie and the more often you repeat it, the more people will believe it.

There is something in our national character that makes us baulk at extremism. We do not like it and we are not comfortable with it, and most of us feel a sense of great unease whenever we hear extremist politics being bandied about. Yet the Howard government has become deaf to the concerns of ordinary Australians. The Prime Minister has isolated himself in the ivory towers of big business, the corporate box and the first-class flights to Rome, and let us not forget the $40,000-per-night hotel room. He is probably on his victory lap with Mrs Howard, sipping champagne and making toasts with foreign dignitaries and diplomats before retiring. Doesn’t he look happy for it? He is happy to push through this extremist legislation because he no longer listens to Australians.

The government deliberately kept the public in the dark about details of the legislation. In fact, I would go as far as to say that this government misled the Australian public with its $55 million ad campaign, its government lies. The Australian community is only just beginning to fully understand the extreme nature of these changes. But worse is still to come from this government, because if these irresponsible and unfair changes are passed through this place then the public will really understand what rights they have lost—the rights that they deserve to have in the workplace, the rights that Prime Minister Howard and his ideologically extreme Liberal government have taken away from them. Back in 1996, the Prime Minister gave what he described as an ironclad, rock solid guarantee that no individual Australian employee would be worse off. He will not give it now. But I could encourage those on the government side in their speeches to give it. The Prime Minister will not give that guarantee because he knows that the public policy objective of these proposals is to reduce wages and reduce or remove conditions and entitlements.

Let us be clear: IR reform in itself is not bad. But I do not call this IR reform. It is changes to the industrial relations system that we have known. Labor cannot support this extreme model because it is a clear attack on workers’ wages. On wages, the Prime Minister says: ‘My guarantee is my record. Look at my record.’ The Prime Minister says that, under his record, real wages have increased by 14 per cent and the minimum wage has increased by 12 per cent in real terms. But let us look at the Prime Minister’s record. It is a record of failure, a record of selling out workers. Why? Because the labour movement through the ACTU has delivered the increases while the Howard Government has opposed every single minimum wage case. The minimum wage has
increased by 12 per cent in real terms despite the Prime Minister’s best efforts, not because of them. If the Australian Industrial Relations Commission had agreed to the submissions made by the government since it came to office and made its first submission to the AIRC on a minimum wage case in 1997, those on the minimum wage would be $50 a week, or $2,600 a year, worse off. That would have been the consequence of the Howard government’s extremist submissions to the Australian Industrial Relations Commission.

That is why the Prime Minister wants to take an axe to the minimum wage and remove the powers of the Industrial Relations Commission. He wants to get through the back door what he has not been able to get through the front door. He has opposed the minimum wage increases so he wants to create an unfair pay commission. Yet you come to entitlements and the great con continues. The Prime Minister is saying that they are only knocking off four allowable matters—long service leave, jury service, notice of termination and superannuation—because those matters can be dealt with in the state system.

At the same time, he is proclaiming how wonderful it is that the government is preserving four legislated minimum conditions. Of course, if you include the minimum wage, that is five. They will be leaving 12 others floating. Public holidays, rest breaks, bonuses, annual leave loadings, penalty rates and shift and overtime loadings are among those that can be written off by a single line in an AWA. Shame on this government.

The report by the Employment, Workplace Relations and Education Legislation Committee into this bill found that the drafting of section 104(6) enables an employer to require new and existing employees to make an AWA a condition of employment without this being termed duress under the legislation. You have actually got to say it is not duress under the legislation to give it effect because that might be what it actually does. The committee was told by DEWR that section 104(6) was ambiguous in this respect. An example recently referred to in question time in federal parliament relates to an AWA which states:

Wages: Your rate of pay which is inclusive of leave loading, all allowances, penalties and public holiday pay is $17.20 per hour.

That is all it takes to knock off the default clause.

The government is also seeking to do away completely with unfair dismissal protection for many millions of workers. They will lose their protections. Where we can decide and decipher, those businesses with 100 or fewer employees will have no protection, other than the statutory law protection, which is not about the unfair dismissals that the employees want to progress. They want the ability to be able to use the commission as it has always been used—to help workers and employers. It creates a forum for them to discuss the issues that beset them.

Now the Prime Minister and his ministry of cronies would have us believe that unlawful termination laws will protect employees from being unfairly sacked, but unlawful termination is not the same as unfair dismissal. Unlawful termination laws are very narrow and apply in very few circumstances. The government’s proposed unlawful termination laws will not cover most circumstances in which employees are unfairly dismissed. In fact, despite the rhetoric of a fair bargain between an employer and an employee, the government has already rigged the bargaining process to advantage the employer before they even sit down at the table.
The proposed legislation will make it an offence punishable with a $33,000 fine to even suggest that certain provisions—such as unfair dismissal—be included in the agreement. If a union official or an average employee—or even a not so average employee—has the temerity to say that they want certain protections outlined in their agreement then they are $33,000 out of pocket if the government decides to single them out. The government, despite its rhetoric of choice, has taken certain provisions off the bargaining table completely. There is no choice.

The opposition believes that workplace collective bargaining should be promoted and underpinned by a safety net of fair and relevant minimum standards of pay and employment conditions. As included in the committee’s report, a legislative framework for agreement making should ensure fairness, flexibility and job security; provide an arbitral role for the Industrial Relations Commission to ensure that parties to a dispute enter negotiations in a reasonable and proper way; and require employers and employees to bargain in good faith. The WorkChoices bill does not meet any of these basic requirements.

There are pressures, but these pressures are occurring where we have skills shortages in the labour market. What has the government done about that? The government has left us unprepared for the demands we now face, and the way to invest in the future is not to whack workers with wage decreases or to take away their long service leave, their penalty rates and their right to take the day off on public holidays. The way to invest in the future of the Australian economy and Australian workers is to invest in their skills, training and education. That is the right course, but it is not the course this government wants to take.

Already we are seeing cases which illustrate that the Howard government’s pledge that workers will have choice is a furphy. When it comes to the crunch, workers will have to fight and fight hard for their rights to be taken seriously by employers, and they will need strong unions behind them to help with the fight. In fact, there is only one choice that Mr Howard wants for workers—the choice to sign up to a non-union agreement or face termination. The government does not want workers to have a choice. One of the choices of a certified agreement is for a greenfield business to have a bargain with itself and come up with a term and a certified agreement that will be presented to its workers when they turn up. That is not a contract; that is not a wages for work bargain. That is a disgrace. The government does not want workers to have a choice at all. It wants workers to leave unions—it is driving them way—it wants workers to be forced to sign up to non-union agreements, and it wants to cut penalty rates and entitlements and drive those conditions down.

This is the future of the Australian workplace system. The big end of town tells the workers what they will work for, and everyone else has to be quiet. Everything about this situation underscores why the workplace relations changes are bad for Australia, bad for workers and bad for the unions that represent them. It is no wonder that Mr Howard has consistently refused to guarantee that no worker will be worse off under the new legislation. This extremist government simply does not believe in a fair go for ordinary Australians who happen to belong to a union or who happen to want to collectively bargain for a better deal.

If you have time, come to my office and I will tell you about some of those employers and how they bargained unfairly. Under Mr Howard’s extremist new laws, I suspect that they will be able to do it even better. They
will want to sign up people for an AWA on a take it or leave it basis: ‘If you want to earn enough to feed your family and pay your mortgage, sorry, that is all I can afford as an employer and all I am going to offer as an employer.’ The right to collectively bargain is of paramount importance. It should not be lost in this way. It should not be forgotten.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT
(Senator Marshall)—Order! It being 12.45 pm, I call on matters of public interest.

Australian Broadcasting Corporation

Senator SANTORO (Queensland) (12.45 pm)—Last time I spoke in the matters of public interest discussion, on 9 November, I spoke on the continuing issue of ABC bias and lack of balance of broadcast news and current affairs. It was no particular pleasure doing so. I would far rather that, in the context of obvious error, the ABC just accepted that it is an imperfect entity—nothing and no-one is perfect—and answered questions as it should do rather than evade them, which it always does.

It is with equal displeasure that I return to the topic today. I do so on this occasion for two chief reasons. One is that I wish to make a plea directly to the ABC’s managing director, Mr Russell Balding, to get control of the nest of obfuscators in his corporation. Mr Balding did not appear at the latest estimates hearings, of course, as everyone knows, but he is still the man in charge. Presumably if he was to say to his people, ‘Look, just answer the questions,’ his people would comply with his direction.

After the last estimates hearings, at which the ABC’s crack platoon of obfuscators appeared—dimly, as it were, through the smokescreen—in Mr Balding’s place, I copped a lot of flak. I do not mind coping flak. It comes with the territory when you are in politics. But I do mind when the flak is undeserved or when it is not objective and is designed to bolster the view that the ABC is somehow untouchable. No entity that depends on public funds is untouchable. No media operation of whatever stripe or provenance is untouchable either. It is the media’s job to critique governments—we all accept that and welcome it—and to watch over and report on community issues.

The ABC does a fine job in that role as our leading public broadcaster. I have always made that point too. But it makes mistakes. Everyone does and, as I said, nobody is perfect. It must, and I underline ‘must’, work out a way to correct itself in its partiality. It does itself the greatest disservice by evading issues and avoiding answers, and that is a shame. Its chief problem remains the coterie of luminaries in its news and current affairs broadcasting who consistently, wilfully fail to abide by the ABC’s own rules requiring objectivity and balance. Until it is prepared to confront that issue in a meaningful way, voices in the community and in this parliament will be very loud on that significant failure of management.

At the latest estimates, as honourable senators know, I asked a lot of questions. I had hoped to re-engage Mr Balding in that process, but for reasons that remain still unexplained that was not to be. I put a lot more questions on notice. The result was a further flurry of activity by ABC defenders, who, while they might approach the issues from different perspectives, are seemingly of one mind that the ABC is above criticism from a government senator. One particularly pernicious group of defenders exists within the organisation known as the Friends of the ABC. I do not believe they are true friends of the ABC at all. True friends point out faults. They do not ignore them, seek to hide them or aid and abet hiding them.
Honourable senators may know that I had a straw poll running on my web site on the question of whether there was a left-wing bias within the ABC. It was not a scientific poll. It could not be, and I do not think that anyone would ever think that it could be, but it provided a way for people to express a point of view on the ABC. After the latest estimates it was rorted by the Friends of the ABC. I refer to the organisation that arrogates to itself that title. Some of the email traffic that I tracked down relating to this operation was quite interesting. The vote stuffing that these people engaged in appears to have been organised from within the New South Wales wing of ‘the friends’. The email traffic identified indicates that the Friends of the ABC staged an orchestrated campaign to rig the poll. An examination of the web site’s server logs support this claim, as do comments posted on a number of left-wing blog sites.

It is also interesting that in one case one individual voted 1,900 times. That is real dedication. Dozens of IPs identified by tracking post on my web site—Santosantoro.com is a great site, by the way; please feel free as parliamentary colleagues to visit it often and recommend it to your friends—also appeared to have voted dozens of times. The orchestrated stuffing of votes by the Friends of the ABC is of no consequence except that it seems to indicate a very curious view of the fundamental principles of democracy.

Perhaps the friends are inflicted with the same hubris that leads some of the ABC’s great minds to believe that only they possess true wisdom. In any event, I say to them today, and particularly to Nizza Siano of the eastern suburbs Friends of the ABC in Sydney and Trevor Wheeler of the ACT branch: don’t kid yourselves. There is a bit more substance to these ABC issues than can be fixed from their point of view by rorting a web poll and laughing about it. Nizza and Trevor, for the record, I pulled the poll on 9 November, but not because the ABC was winning. I pulled it because it was absolutely clear that it was rorted by people running a vote stuffing campaign. Nizza in Sydney’s eastern suburbs said to Trevor in the ACT in an email sent at 3.32 pm on Thursday 10 November:

Yes, he’s removed the vote from his Home Page. I think when it started looking good for the ABC and bad for him, he decided to stop the Poll.

She got it absolutely wrong. Trevor emailed Nizza at 11.49 am on Wednesday 9 November and said:

It’s now 55 %—but I can’t figure out how to vote. Perhaps that survey has closed!

It was just a little too late to take part in the sport. Bad luck, Trevor—try running onto the field a little earlier next time.

On the subject of opinion polls, I was interested to see yesterday the results of a Roy Morgan poll on broadcasting consumer habits. It shows that Australians who support the Australian Labor Party predominantly turn to the ABC for their current affairs while supporters of the coalition opt for Channel 9. I certainly hope that this does not mean that the ABC will now lay claim to another collection of undeserved brownie points on the basis that it is plainly giving its audience what it wants to hear and see.

For the benefit of people who apparently misinterpret my motives in trying to call the ABC to account, including the Friends of the ABC—the Queensland chapter of which I am still trying to join, by the way—various media critics who have the chutzpah required to call me a nitpicker while still finding it possible to look at themselves straight-faced in the mirror and of course the chatterati within the ABC itself, I again say: I am not seeking to replace left-wing imbalance with an alternative right-wing imbalance. No-one I know wants to do that. It would be wrong
to attempt to do so and against the public interest. However, it is the public interest that I seek to serve. That is why commentators like Mike Carlton of the *Sydney Morning Herald* are so wrong when they misinterpret the motives of those like me who seek an ABC that is actually accountable, as opposed to being theoretically accountable. On Saturday 5 November Mr Carlton wrote in his column:

Santoro’s idee fixe, amounting almost to mania, is that the ABC is a nest of left-wing traitors to be exposed relentlessly. He retains a network of busybodies who diligently report evidence of bias and subversion.

‘There are about 28 people in Australia monitoring what the ABC does,’ he boasted to a Senate estimates committee on Monday. ‘I receive between 15 and 20 tapes a week, and out of that we get transcripts. We are absolutely deadly serious... about making the ABC accountable.’

Mr Carlton got it wrong. I doubt that anyone is surprised by that. I do not retain and have never said I retain a network of people, busybodies or otherwise, to file reports on ABC bias. Mr Carlton apparently needed a dyspeptic column item. Perhaps he was having a bad day. Maybe someone’s latte had got cold or their chardonnay had unaccountably warmed beyond the exact Celsius value at which it should be served. Life is so difficult sometimes, isn’t it? While he was pondering the technical difficulties of reheating latte or recoling an uncorked chardonnay, he invented something to write about using the tried and true methodology of some of his ilk. He started with a basic misinterpretation and extrapolated it from there.

The fact is there are many people in the community who object to bias and lack of balance on the public airwaves. The fact is there are some among them who actually want to do something about it, and from among that cohort some of them come to me. This is obviously something that disturbs Mr Carlton. It must not concur with his view of how the universe truly works. Well, to that, I say: tough.

Other pundits had a go at me following the estimates hearings and that is fine. As I said earlier, it comes with the territory. Some of them were even funny, and I think, in this instance, of Matt Price of the *Australian*, for example. And some of them are earnest like Errol Simper, who writes the excellent ‘Scribes’ column, also in the *Australian*. I was interested to read later, by the way, that Mr Price now thinks that I may have a point about bias in the ABC since he discovered to his horror that his own favourite music is not favoured by the ABC.

Jokes aside, the issue of ABC bias and lack of balance in news and current affairs broadcasting is simply not going to go away. It is on the agenda. It will stay there until the issue is resolved. What must be delivered is objectivity in line with the ABC’s charter as a public broadcaster, and a lasso must be placed around the broadcast egoists who pitch their own agenda. That this campaign is on some occasions supported by unbelievably crass quips on air is the plainest evidence of all that these people think they are a law unto themselves. One thinks of Tony Eastley’s moving car quip on *AM* about Vivian Solon as a prime example of a public sin left publicly unpunished—one suspects it is quietly applauded by the in-crowd.

Of course, broadcasters of whatever class, luminary or otherwise, are quite at liberty to delude themselves over the nature and effect of the threat that faces democratic systems from the terrorists of this world. But Australians do not believe they are entitled to market that delusion by attempting to influence audiences to their way of thinking or, for that matter, any particular way of thinking. That is the bottom line. As I mentioned at the beginning of this speech, it would have been
useful to take it up again with Mr Balding at the latest hearings.

For those who still refuse to comprehend, I repeat: the issue of ABC bias is not a political argument. That may be something the Friends of the ABC and some within the ABC itself find difficult to believe, but it is nonetheless the truth. And it is what has driven my campaign to correct bias and lack of balance in ABC news and current affairs broadcasting since I first entered the Senate in 2002. The situation is that the ABC’s own rules are being flouted. We cannot forget about the smokescreen of contextual counterargument that the pliant ABC management fronts up with when these issues are raised, so that the broadcasters themselves become the arbiters. Legitimate public discussion about policy and outcomes is derailed as a consequence. This can be corrected by the ABC management, and I strongly recommend that they must get on and do so. The ABC has thus far ducked every substantial question about editorial bias. That reflects no credit on the corporation and indeed it is a shame.

Workplace Relations

Senator McLUCAS (Queensland) (12.56 pm)—Most people understand the word ‘choice’ to mean that there are a range of options, but in the so-called Work Choices bill the word is an abomination. The reality is that people will have no choice but to take jobs that offer lower relative pay, poorer conditions; a lack of job security and no compensation for unsocial or extended working time. The impact of these changes on people working in aged care, for people with disabilities, for people who work with those with disabilities and for carers will undoubtedly be devastating not only for the workers themselves but also for the sectors in which they work.

We all know that the human services sector is epitomised by low pay levels, particularly in aged care and in disability services. Employment in the aged care sector, both community care and residential aged care, often means difficult working hours, including broken shifts, antisocial hours—for example, night shift—and the regularly reported need to work unpaid, both overtime and through meal breaks. Some of this is related to the nature of the caring role, but it is also due in general to underfunding of the human services sector. This legislation, the so-called Work Choices bill, will only exacerbate an already stressed system. Carers who are able to work have to balance their caring and work needs and will also face uncertain times with the introduction of this draconian legislation.

In the dissenting report on workplace agreements Senator Troeth demonstrated a rare moment of frankness about the true intent of this bill when she wrote:

Government party Senators take the view here that safety-net awards are probably too high ... and that this causes serious distortion in the wage structure, leading to discouragement of employment.

What she means is that this bill is about cutting wages. And that means cutting wages of already lowly paid but highly valuable employees in aged care. It means cutting the wages of those people with disabilities who work and the wages of carers, and it means being able to sack people at will—stripping already limited power from the employee and giving all the power to the employer.

We should have a look at what this means for personal care workers working in aged care, who are among one of the lowest paid groups of employees in Australia. These workers are almost universally reliant on the minimum award wage. Many aged care workers are lowly paid and vulnerable. Their vulnerability is related to the caring role.
Many aged care services employ small, co-operative working teams who are intimately and personally involved in the lives of the people they care for and with each other. I often receive reports of nurses and personal care workers who agree not to take wage rises due to them because the facility owner tells them that they cannot afford to pay them. This is an appalling situation—that the care of elderly Australians is reliant on the goodwill of staff in a facility forgoing entitlements they are due and pay that they deserve. That is the situation now.

What will happen when employers take advantage of the new workplaces legislation to further strip away already limited entitlements that workers’ representatives have gained for them? They do not have strong individual bargaining positions, and could easily be targeted by an employer who is either strapped for cash to run a facility or prepared to exploit their workers.

Let us take the case of Susan. Susan is a 45-year-old divorcee with two teenaged children who works as a personal care worker in an aged care facility. She loves her work, where she helps look after 79 elderly residents, 42 of whom have high care needs because of dementia. Her day involves helping the residents with their care needs, such as assisting them in getting out of bed, showering, dressing and helping them with their meals, and much more. She knows each person and their family, and in her own way is a strong source of care and comfort to them all. Because of the high care needs of her residents and because of her strong commitment to those she cares for, Susan is very busy all day and often works through meal breaks and stays late if there is work to finish, and the residents in turn love her for it.

For all of this, Susan would take home $440 for a regular 38-hour week, working day shifts. But that is not enough to sustain her family needs, so she works shifts that are unsociable and that appropriately carry penalty rates. Then she can add about $140 to her weekly pay. Even then, that is not big money, but those important penalty rates will be threatened by the introduction of this Work Choices bill. Without those penalty rates, Susan would find it difficult to pay her mortgage and to look after the needs of her children, and potentially would have to go without herself.

Hundreds of thousands of health workers rely on their allowances, loadings and penalty rates to give them a decent income and compensate them for working around the clock in a high stress environment. The impact of these changes in the health sector in my view could be quite dramatic. Thousands of people working in aged care rely on the minimum wage case run before the Industrial Relations Commission each year for their annual pay rise. The switch to the dishonestly named Fair Pay Commission puts future pay rises in jeopardy.

The Australian Nursing Federation, which represents 145,000 nurses, has condemned the bill, saying it will have a negative impact on the working lives of registered and enrolled nurses and their capacity to provide quality nursing care. Many hard fought working conditions that protect residents and promote quality care—such as minimum breaks between shifts and measures to manage excessive workloads—could be lost. These conditions are currently described in awards and agreements and could very well go with the introduction of individual agreements. With the current nurse shortage crisis, this bill will have massive recruitment and retention issues associated with it. Why would a nurse or a carer work night duty or weekends in aged care if they get no more money than working a weekday shift?
Recruitment and retention of personal care workers and nurses in aged care is well known as an existing problem in the sector. How can we solve the staffing crisis in aged care when workers, who are already lowly paid, are forced onto minimum conditions, get no penalty rates for weekend or night shifts and can be sacked at the drop of a hat? If this government were really serious about the provision of quality care for older people, care that is provided by appropriately skilled staff, then they would have a commitment to seriously improving the working conditions of these workers, rather than be stripping conditions away. In too many facilities, residents and staff are both suffering because there are simply not enough staff, nor the resources required, to deliver proper care. Stress levels are rising and residents are being forced to go without the most basic care, such as something as simple as being taken to the toilet on time. Elderly Australians deserve better and so do the staff working in the sector.

The removal of access to unfair dismissal protections in workplaces of less than 100 employees is another change that will have implications for nurses and other aged care workers. The legislation allows employers in workplaces of less than 100 employees to sack an employee for any reason—or for no reason at all—without redress. Most aged care facilities meet this condition, which will jeopardise the job security of their staff. Community care workers are another workforce that will be dramatically affected by this bill. Community care is not only less regulated than residential aged care, but the workers work in isolated situations. They also are employed in small work teams and this will make them even more susceptible to attacks on their employment conditions.

Like the people who work in the aged care sector, people who work in the disability sector are relatively low paid and are at risk of being taken advantage of due to the nature of the caring role, the small work places that they work in and their commitment to the people they work with and care for. The sector reports high staff turnover related to the low levels of pay, the demanding job and burnout. The government’s workplace relations bill will only exacerbate this already tenuous situation.

I turn now to people with disabilities. Professor Ron McCallum, professor of industrial law at Sydney University, recently said that the rights of people with disabilities could well be undermined by the bill because of the provisions allowing them to be paid well below the minimum wage. The so-called Fair Pay Commission will be handed broad powers in setting minimum pay rates for all workers, including those with disabilities. Professor McCallum said the law already allowed employers to pay below minimum rates for people working in business services, but said the new provisions were overly broad without safeguards. He added that there was a risk of employers using special rates to buy cheap labour from people with disabilities. In addition, the Australian Federation of Disability Organisations said the main concerns that they had about the bill included: the potential for a reduction in earnings for people with disability, the adequacy of protections for people with disability with regard to negotiations and employment tenure, and the impact of the reduction in minimum working conditions.

Proposed section 7J(110) of the bill details the wage setting parameters of the Australian Fair Pay Commission and lists the factors which the Commission is to regard when setting wages. The last of these is:

... providing minimum wages for ... employees with disabilities that ensure those employees are competitive in the labour market.
Unsurprisingly, people with disabilities are concerned about what competitive means. In the bill, employees with disabilities are defined as people who are eligible for the Disability Support Pension. However, AFDO is of the view that proposed section 7J(110) of the bill reads as if all employees with disabilities will be subject to an alternative wages setting mechanism. The Australian Federation of Disability Organisations also pointed out that people with disabilities already earn less than their able-bodied counterparts due in part to stereotyping and discrimination. There is no reason to believe that discriminatory attitudes will not colour the judgment of people who are charged with negotiating the wages of employees with a disability and lead to people with a disability being offered lower wages for doing the same work as others.

In the remaining time I would like to quickly go to the question of the impact of this bill on carers, who also will be affected by the implementation of the so-called Work Choices bill. All working carers struggle to juggle their care and work responsibilities. They are most likely to be in low paid employment. The Access Economics report, *The economic value of informal care*, identifies that:

Carers typically live in households with lower than average measured income, being over-represented in the lower quintiles and under-represented in the higher quintiles.

Also, their care responsibilities impinge on their work commitments. They are predictably unable to take variable shifts. They need predictability in their working times and in their income. The loss of bargaining power for people who are reliant on steady income, places these individuals in a tenuous position. Working carers have limited bargaining power. There will be many who will lack the effective capacity to refuse terms—both pay and working hours—which are unacceptable to their personal circumstances. Carers struggle to be part of the work force. This legislation could very well limit participation for people who are balancing work and care. The loss of employment for a working carer is debilitating, not only because of the loss of income but also, very importantly, because of the loss of connection to community.

Australians have conclusively demonstrated that they do not want these laws. They want laws that are fair to both employee and employer. They want laws that enable their children to grow up in a society that is fair for them and for all Australians. The Work Choices bill is not in the interests of workers in aged care, people with disabilities or carers. We need to improve the rights of vulnerable workers—whether they are in aged care, people with disabilities or carers—not increase their vulnerability. But this is what the Work Choices bill will do. How did our society come to this—that we are treating our citizens with such disregard and expect them to just sit back quietly and be grateful for this Hobson’s choice? These privileged government ministers have no idea what it means to be working and barely scraping by just to put food on the table. They do not know what it is like to worry about the next rent or mortgage payment, or whether they are even going to have a job tomorrow. The public do not want this bill; there is no justification for it and Australian society will suffer as a consequence.

**Gynaecological Cancer**

Senator ALLISON (Victoria—Leader of the Australian Democrats) (1.11 pm)—Over the past five years, 7,395 Australian women have died from a gynaecological cancer—55 per cent of those from ovarian cancer. What I want to talk about today is the fact that it is a hidden disease. There are no known effective methods for early diagnosis of ovarian cancer, no Australian guidelines and no referral
policies. The Australian government’s report, *Priorities for action in cancer control 2001-2003*, indicated that although cancer consumes six per cent of overall direct government expenditure on health—$1.9 billion according to the Australian Institute of Health and Welfare—gynaecological cancer needs were grossly underrepresented as a priority.

The priorities for action addressed seven of the eight national health priority areas but did not adequately recognise gynaecological cancer needs. The gynaecological cancer priorities emphasised cervical cancer but, rather than introduce new initiatives to allay women’s risk, it was recommended that there be a reduction in pap screening intervals from two to three years. The *Priorities for action in cancer control* paper admits that this reduction will:

... yield substantial cost savings but might entail a small increase in the burden of cervical cancer.

Under ‘prevention’, there is no mention of gynaecological cancer. The priorities for action include improving outcomes from ovarian cancer by ensuring that all people with these cancers are assessed at a multidisciplinary specialist centre as soon as possible after diagnosis. The problem is that the data shows that, of all GP referrals between 2002 and 2004, only 0.5 to one per cent were referrals to gynaecological specialists, despite the number of women across Australia diagnosed with a gynaecological cancer per year—3,881 new cases in 2001.

It is not possible for many women in country areas and, indeed, in cities to get access to specialist centres. Ovarian cancer is often misdiagnosed until it is at an advanced stage, so it is urgent that there be improved education for GPs, nurses, gynaecologists and surgeons, and that women do get access to these multidisciplinary specialist centres. The priorities identify the need for support for cancer patients—improving psychosocial care for people with cancer through the provision of psychologists in cancer centres and clinics. This is ideal but resources have not been allocated across all centres and few women have access to such support.

In Australia, 1,151 new cases of ovarian cancer were diagnosed in 1997. Survival from these cancers is considered lower than world benchmark figures—in fact, 20 per cent lower than that achieved by the United States. So it must be said that the national health programs fail to give the best care. The outcome for ovarian cancer survival is recognised as poor. Forty per cent survive five years from diagnosis because diagnosis, as I said, occurs at such a late stage. In September 2001, the government announced the establishment of a new program for ovarian cancer and provided $500,000 over two years, and the National Breast Cancer Centre was asked to implement the program. But $250,000 a year is not going to fund research into an early screening test for ovarian cancer. In February 2002, as part of the National Ovarian Cancer Week activities, the Ovarian Cancer Program published a new report, *Ovarian cancer in Australian women*. This report highlights the need to take immediate action on ovarian cancer.

Of the 350,000 Australians diagnosed every year with cancer, 34,000 will die from it—that is all cancers. Female cancers are projected to increase by 29 per cent from 40,518 cases in 2001 to 52,356 cases by 2011, yet spending on cancer does not reflect this projection. On average $146 is spent for every man and $135 for every woman with cancer, and the older the age group, the greater the difference. By 65 to 74 years of age the gap is $452 per person. By age 75 and over, the expenditure gap is $500. So there are very big differences in the way that
the health system is treating people with cancer on a gender basis.

I want to now read the story of a young mother who currently has stage 4 vaginal cancer and was given six months to live some time ago. It is a very moving letter. I will not go through all the details of her diagnosis, but I do want to read the last part of her letter. She says:

Of course I have questioned WHY???? I have sought second, third and even a sixth opinion of my diagnosis only to be instructed to enjoy the time I have left. You would think that after that brief explanation of my situation I would be more upset with the medical professionals who have poked, prodded, biopsied, and baffled me with their foreign language of medical terminology.

But my anger is also directed at the general public. The friends, family and community members who have made me feel ashamed of my diagnosis. I have encountered people who ask about the location of my cancer and then look at me with horror when I tell them.

I had begun explaining my diagnosis by telling people all the secondary locations the cancer had invaded and excluding the primary cancer, but I soon realized I shouldn’t have to be responsible for the discomfort of other people, the fact remained the secondary sites were a direct result of Vaginal cancer.

Even though cancer is no longer a health issue discussed only behind closed doors, people still do not completely understand that it isn’t contagious. I have had friends sever contact with me for reasons I still cannot understand. Some friends believed that by entering my home they would get cancer, others stopped contact because they didn’t know how to deal with my diagnosis.

The second category I understand to a degree but the first made me angry. At first I thought maybe they were uneducated but my experience of these people told me it wasn’t their education that was lacking but more the societal awareness of cancer.

During my courses of radiation and chemotherapy I met some amazing people of all ages. They inspired me as much as their stories were heart-breaking. Even though I was in the same position I struggled to find the words to comfort them.

But I am devastated by the attitude of the health industry and general media by their reinforcement that women should be embarrassed or ashamed of Pap Smears and intimate discussions about the essence of their femininity.

Why are the words vagina, vulva and clitoris so shameful?

These anatomical parts are what set the female race apart from the male population. Men can discuss their penises in public but women are raised to believe that their differences are dirty or to be kept private. It raises the age old debate about how men are the superior race and yet without women and their reproductive organs the population would not exist.

I may not have much time left to fight this battle but whilst I am still able I will be taking my story to as many people as will listen. I will stand alongside women like Kathleen Mazzella and GAIN Gynaecological Awareness Information Network ... in the hope that more women can find the confidence to speak out about these truly important feminine issues.

Due to the rather extreme nature of my situation I have had many people ask what they can do to help....I could be selfish and materialistic and ask for financial contributions which would certainly ease a lot of pressure on my grieving family. I could request an all expenses paid holiday or I could mention a new car which is sorely needed but all I ask is this....

I want more women to come forward with their opinions and to take a stand against the general consensus that we cannot or should not discuss our sexual health or genitalia with the same acceptance that men can and do.

As a woman I believe I know my own body better than any doctor or any man. If your intuition tells you something is wrong then don’t be discouraged from fighting for the truth. Keep battling the social intolerance and tear down the stigma relating to women and their bits.

So many issues may have contributed to having this alien destroying my body but if someone had told me there were risks associated with multiple
surgeries or explored in more detail the reason for my miscarriages I may still have a future that extends beyond six months.

I pray that even if only one woman takes my story seriously she will have the power to save her own life.

This afternoon I plan to table a petition which has now collected almost 3,000 signatures from women who believe that this is a subject that ought to be paid much more attention to. That petition will say:

We believe that Australian females should have the basic rights to increased funding for the management and prevention of gynaecological cancers and sexually transmitted infections and sexual functioning, especially in relation to research funding allocation of basic services and treatment and increased education and community awareness.

That petition, as I said, is signed by almost 3,000 women. I am going to take the unusual step this afternoon of asking the Senate, on behalf of some other colleagues in this place who have agreed to be a part of this, that this be tabled not in the normal way by handing it to the Clerk but by handing it over as part of my notice of motion, and I ask that it be referred to the Senate Community Affairs Committee.

It strikes me that in this place petitions often go nowhere or appear to go nowhere and those people who have spent a lot of time collecting signatures and lodging them in the Senate or the House of Representatives often feel that their efforts are in vain. There is some small mention in the Hansard but little else besides. In other parliaments it is an automatic response for a petition to be referred to the appropriate committee. That does not mean that it is referred for an inquiry. It means that it is referred for the committee to consider and make a response. That is exactly what I plan to do this afternoon. I would like the Senate Community Affairs Committee to look at this petition and what is being called for. As I said, this does not mean an inquiry. I do not wish to overload the committee with tasks, but I do think that there are opportunities for our committees to look at the pleas which are made of us and see whether there is a need or a desire amongst the committee for a further investigation. I think this important issue for women needs to have that treatment and I look forward to support on this in the Senate chamber this afternoon when I do that.

Communications

Senator CONROY (Victoria) (1.23 pm)—I rise today to discuss a matter of public interest—the ongoing shambles that is the communications portfolio in this government because of the refusal of the Minister for Communications, Information Technology and the Arts to make the tough policy decisions required across her portfolio. While the policy inactivity of the terminally cynical Senator Alston and barely interested Daryl Williams are well-known, Senator Coonan’s lack of action has been disguised by a series of public statements feigning policy action. However, when you scratch the surface of minister’s public comments, it is clear that the minister has produced just as little in the way of substantive reform as Messrs Alston and Williams.

It is hard to believe that the Department of Communications, Information Technology and the Arts web site currently lists 26 reviews as being open for consultation. That is a review for every fortnight of the last year. A Parlinfo search for the words ‘Coonan’ and ‘review’ returns 588 media reports this year. There has been plenty of reviewing going on in the minister’s office—just not much decision making. On the big issues in communications like cross-media reform, digital television, antisiphoning, finding a chair for ACMA, the operational separation of Telstra, Telstra’s local presence requirements, the
establishment of a national ‘do not call’ register and banning junk mail, the minister has failed to take any firm decisions despite being in the portfolio for more than 18 months. From broadcasting and telecommunications to postal services and IT, the communications portfolio under Senator Coonan has been characterised by constant delay and deferral of policy decisions. It has become clear that Senator Coonan’s procession of committees, task forces, working groups, consultations, reviews and inquiries are nothing more than an increasingly ineffective fig leaf designed to hide her failure to tackle the real issues.

Instead of addressing the big issues, the minister occupies herself with pork-barrelling programs to placate Senator Joyce and minor policy amendments to maintain the illusion of activity. The only substantive policy decision taken and being acted on by the minister is the privatisation of Telstra, and that was a decision made by the Liberal Party in 1995. It is not as if the minister has had to invest much intellectual or political capital in deciding to act on that issue. To date, after 18 months in the job, the minister has not one substantive policy decision to her credit.

Senator Coonan has shown herself to be the minister for communications and procrastinations. She is the minister for ducking decisions and delaying deeds. Under Senator Coonan, for every problem there is a review, for every dilemma there is an inquiry, for every quandary there is a task force and for every challenge there is a committee. But for nothing is there a decision. As the shadow minister in this area I fully appreciate that communications is a challenging policy area. However, the buck must stop with Senator Coonan as the minister responsible. Where there are tough decisions to be made, she must make them and not hide behind consultations and departmental inquiries.

Senator Coonan’s policy inaction in the communications portfolio is hurting the industry. Today I am going to give just a few examples of this in the areas of the creation of ACMA, digital television, cross-media reform, junk mail and telemarketing. The most publicly visible testament to the minister’s failure to make the necessary decisions in her portfolio is the empty seat at the head of the boardroom table at the Australian Communications and Media Authority. Legislation for the creation of ACMA was passed by the Senate in March 2005. Plans for the creation of this new regulator had been in train for many months before this. Yet today, almost six months after the official birth of ACMA, the regulator is still a headless chook and the minister has been unable to find a permanent chair for the body. Again, this is one of those areas where the minister’s public rhetoric fails to match the action that is being taken.

If you listen to the minister’s public statements on this issue, you could be forgiven for thinking that an appointment was imminent. After all, the minister has said as much on numerous occasions. On 16 June 2005 in a media report, the minister is quoted as saying, ‘Shortly.’ On 24 June the minister’s press release said that an announcement about the chair of ACMA would be made ‘shortly.’ On 25 June the minister, in a media report, said, ‘A decision will be made shortly.’ On 12 July 2005 the minister, again in a media report, said, ‘An announcement can be expected shortly.’ On 28 July 2005 the minister, in another media report, said, ‘An announcement will be made in due course.’ On 13 September 2005 a spokesman was quoted in the media as saying, ‘Soon.’ On 31 October at Senate estimates, once again the minister said, ‘Very soon.’

And yet today, almost six months down the track, there is no new chair and the industry is starting to feel the effects. It seems
that after 10 long years the government has run out of mates of John Howard for these jobs. I know that will seem incredible, but that can be the only explanation. It is more than a little ironic that during the committee stage of the ACMA bill the minister herself was lecturing the Senate on the need to pass legislation establishing ACMA as quickly as possible. She said:

It is, in this context, important that the ACMA is formed by the planned date. I want to impress upon my Senate colleagues that the uncertainty generated by any delay will be disruptive to the regulators, the industry and the smooth functioning of the combined regulators.

That was Senator Helen Coonan in February. Her warnings have certainly been borne out. She was dead right. In the 100 days before the formation of ACMA, its predecessor, the ACA, made 70 telecommunications policy and regulatory announcements. In the 100 days since the merger, in the absence of a permanent chair, the ACMA has made only 25 such announcements—a fall in policy output of almost two-thirds. And yet, the policy gridlock continues because the minister refuses to acknowledge her mistake in merging the roles of the CEO and the chair at ACMA. Labor has offered, on a number of occasions, to support legislation to remedy this mistake by splitting the role of the CEO and chair at ACMA in order to make it easier for the minister to find a suitable candidate. However, to date, the minister has failed to take up Labor’s offer and the industry is left adrift.

Digital TV is another area suffering the effects of Senator Coonan’s policy paralysis. It has been clear for some time now that the government’s digital television policy is an abject failure. Digital broadcasts commenced in 2001, but at present only around 12 per cent of homes have bothered to make the switch to digital by purchasing a set-top box. The current framework gives consumers little incentive to invest in the technology. The current regime was always intended to be transitional. When the digital rules were established back in 2000, the parliament inserted a requirement into the Broadcasting Services Act 1992 that a series of eleven reviews of the digital TV regime be conducted in 2004-05. To date, all but one of the reviews have been completed, and yet only one of those reviews has been released by the minister. That is right—10 reports are sitting on the minister’s desk as I speak. The reviews were intended to inform the parliament and the community—not just the minister—about the way forward on digital TV. The law requires that the reviews must be tabled within 15 sitting days after they are completed. Reviews covering contentious issues such as multichannelling and the fourth network were to have been conducted by 1 January 2005. Here we are at the end of November 2005 and those reports have still not seen the light of day. Earlier this month, I was forced to lodge a freedom of information request to seek information that should have been tabled in parliament. Senator Coonan’s arrogant refusal to release the reviews shows a complete contempt for the parliament. Perhaps the department’s advice is inconsistent with her political objective of appeasing the media moguls, but the minister’s embarrassment is no excuse for failing to comply with the law.

Meanwhile, the take-up of digital television in this country progresses at glacial speed. While UK consumers enjoy the choice of around 30 free-to-air digital channels and a range of interactive features, Australians are languishing in the digital dark age. The minister continues to preside over a regime which prevents the ABC from showing a drama, a comedy, national sport or national news bulletins on its digital channel, called ABC2. The minister continues to preside over a regime which prevents SBS from
showing English language news on its world news digital channel. How is the public interest served by these restrictions? The minister concedes that taxpayers have already paid $1 billion so that the national broadcasters can transmit in digital. So why won’t she give them something to watch? Why doesn’t the minister act on these issues instead of suppressing reports that have been prepared to examine them?

Of course, we know the reason for the inaction. The minister has tied the digital reforms to the government’s plan to abolish the cross-media ownership laws. She wants to sugar-coat the bitter pill of increased media concentration with some relaxation of the digital regime. Senator Coonan has spent much of this year in closed-door talks with the media proprietors, trying to work out what changes are acceptable to them. Her mantra has been that she is seeking broad industry support for the changes. When you give powerful players in the media industry an effective right of veto over your policy, it is not conducive to speedy decisions. Despite being promised the release of a framework document outlining the government’s plan by the end of this year, what do we have as 2006 closes in on us? At the recent ACMA conference, Senator Coonan unveiled, to everyone’s surprise, that she would issue a discussion paper in January. Yet another decision has been delayed.

Senator Coonan has been no more effective or active in the postal services part of her portfolio. At the last election, the centerpiece of the government’s postal policy was a commitment to stop junk mail being delivered to mailboxes with ‘no junk mail’ or ‘no advertising material’ signage. Last year our letterboxes were filled with 8.2 billion pieces of junk mail. This is a real source of irritation for many householders. The government promised to establish a complaints mechanism to give a remedy to people who continue to receive unwanted junk mail; it is now more than 12 months since that commitment was made. And what has happened? The department is still—you guessed it—consulting with the industry. That is right. We have not even got to the point where a discussion paper is released, and the minister pretends that she has dealt with the issue. Perhaps the minister is seeking broad industry support for the policy. Actual action to implement the government’s election commitment looks to be years away.

A further example of the minister’s failure to take policy action instead of just procrastinating can be seen with respect to the need for a national do not call register to save Australian families from annoying telemarketing calls. The need for a national do not call list is an issue that Labor has been pushing for a number of years. Last year, telemarketing companies made more than a billion calls in Australia—that is, 53 calls per person or 2.7 per household per week, a six per cent increase on the previous year. While more than 320,000 people have signed up to a voluntary do not call list maintained by the Australian Direct Marketing Association, this list binds only members of the ADMA and has proven entirely ineffective.

What has been the minister’s response to the issue? After denying the problem even existed for 18 months and after Labor forced the government’s hand by introducing a private member’s bill on the issue, the minister issued—you guessed it—another discussion paper. Do you see a pattern emerging here? Australians are entitled to ask what the areas of contention are on the issue that would justify commissioning a discussion paper rather than just undertaking low-level consultation with industry and then making a decision. Australians are entitled to ask why they have to endure being hassled by unwanted telemarketing calls for months while the minis-
Domestic Violence

Senator KIRK (South Australia) (1.38 pm)—I rise today to speak on a matter of public interest. I would like to begin by posing a question. I ask senators in the chamber whether anyone can name the biggest public health risk to Australian women. The answer is not cancer, heart disease or motor vehicle accidents. The greatest danger facing Australian women is not a disease and it is not an accident. The answer is domestic violence.

Overwhelmingly, most women who are murdered or physically or sexually assaulted in this country are killed or assaulted by their male partners. According to the latest homicide figures published this month, in November 2005, by the Australian Institute of Criminology, 49 per cent of female murder victims are killed during a domestic argument. To put this into perspective, if we look at other figures for murder motives we find that only three per cent of women are killed in what can be described as an alcohol fuelled argument, five per cent are murdered in a revenge attack and seven per cent are killed over drugs or money. That is compared to, as I said, 49 per cent who are killed during a domestic argument.

Statistically speaking, women have more to fear from their boyfriends, partners and husbands than from strangers. In my state of South Australia, almost 80 per cent of women who reported being physically assaulted were attacked by their partners. The figure for sexual assault is even higher, with 97 per cent of victims reporting that the assault was perpetrated by an intimate family member. Bear in mind that these are the assaults which are reported to the police. Australian research also shows that more than one million Australian women have experienced violence during a relationship. More than 60 per cent of those women said they lived in fear during the relationship. Nearly 70 per cent of mothers who were victims of domestic violence said that their children had been witnesses to violence.

Family violence is an issue I have raised in this place on many occasions. It is a topic I will continue to raise despite the fact that it receives scant attention and far too little funding from this government. I am the convenor of the group Parliamentarians Against Child Abuse. Family violence, much like child abuse, is barely on the government radar. It is relegated way down at the lower end of its policy and funding agenda. This government was happy to spend $55 million of taxpayers’ money promoting its extreme industrial relations campaign—and, of course, that was before anyone had even seen the detail of the legislation—but it has shown very limited commitment, beyond paying lip-service, to fixing the problem of domestic violence.

As many senators would know, last Friday was White Ribbon Day, which is also known as the International Day for the Elimination of Violence Against Women. On 25 November every year we reflect on all the women in Australia and overseas who have been killed by their partners and we acknowledge and make a pledge that we will do all we can to help women who continue to be physically and sexually assaulted and verbally abused by their partners. On 25 November each year we wear a white ribbon to show that we are prepared to speak out against domestic violence. Far too often women suffer in silence and the women who seek help are, sadly, often turned away.

Earlier this month, a report prepared by the Women’s Services Network which had been shelved by the government, sadly, for over a year was secretly released onto the Department of Family and Community Ser-
This report, named Women’s refuges, shelters, outreach and support services in Australia, identifies critical gaps in the provision of crisis accommodation for women escaping domestic violence. The research, funded by the Office for Women, surveyed 137 domestic violence support services and policy makers. It reviewed accommodation for women and children fleeing family violence. The report’s author, Julie Oberin, claims that this taxpayer funded report was hidden from the public for a period of 21 months. It is no surprise when you see the main findings of this research.

Some of the main concerns it identified were as follows. It found that there is insufficient funding for emergency accommodation, with one in two women—that is, 50 per cent of women—and two out of three children being turned away from refuges. These are women and children who are escaping domestic violence. It also found that children accompanying women are not treated as clients. This means that the funding allocation is inaccurate and therefore insufficient. It found that there are even more acute shortages in rural and remote areas, with a disproportionate impact on Indigenous women and their children.

Violence against women also costs the community money. An Access Economics report last year estimated that violence against women is costing Australia $8.1 billion per year. Far too often when we talk about domestic violence we talk about statistics. I have done that here today. But behind these statistics there are desperately sad personal stories. My office in Adelaide, South Australia, has received many reports from women who have been the victims of domestic violence. Some have been threatened with knives; others have been punched and thrown against walls. Today I want to put on the public record a few examples that have come to my attention—not, of course, identifying any of the women involved—so that people are made aware of how desperately sad and tragic these cases are. I will give five examples of women speaking in their own words.

First: ‘My ex pinned me to the couch by holding me down by my throat, while holding our then three-month-old daughter, after dragging me across the house. I remember not the choking but staring at my baby in his arms, wondering what will happen to her if I never take another breath.’ Second: ‘He put a hole in the kids’ bedroom door. Although very shaken and realising this was pretty much the final straw in a situation which was obviously only getting worse, I never thought to or had the guts to—I am still not sure which—call the police.’ Third: ‘I am thankful that my ex stays away and makes no effort to see or do anything for my children. The only contact we have is an earful of abuse down the phone every few months.’

Fourth: ‘My husband grabbed me by the throat, lifted me up by my throat and held me against the wall—all in front of our two-year-old.’

In the fifth example the woman states: ‘My husband held me against the wall with a fist in my face, warning me that if he started punching me he wouldn’t stop until I was in intensive care. I eventually got him out of the house and out of our lives. I called the police on two occasions. Both times, nothing happened. They warned him but did nothing else and, the second time, gave us both a lecture about arguing. I was humiliated and felt like such a jerk that I never called them again.’

I will finish on one positive note. In China, the Standing Committee of the 10th National People’s Congress recently adopted amendments which make domestic violence and sexual harassment illegal. For the first time in China’s history, victims now have the right to file complaints. Women now have
protection under the law in China. They know that sexual harassment and domestic violence are crimes and will not be tolerated. I commend the government of China for putting this important legislation in place.

**Fisheries Management**

*Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (1.48 pm)—At the end of last week I announced a major $220 million fishing package from the Australian government to decisively end overfishing in Commonwealth waters and to allow fishermen who have been doing it tough to leave the industry with some dignity. It really has demonstrated that the Howard government is able to manage the environment while at the same time looking after the interests of an industry group in Australia—in this case, the fishing industry—in a way that, I have to say with some pride, has resulted in widespread support and commendation from environmentalists, the recreational and commercial fishing industries and all of those with an interest in sustainable fishing in Australia. That particular package principally relates to the South East Fishery, which is on the coast of New South Wales, Victoria and around Tasmania; the East Coast Tuna and Billfish Fishery, which is mainly along the east coast of Australia from Eden up to Cooktown; and the Bass Strait Central Zone Scallop Fishery. The package allows other Commonwealth licensed fishermen to retire.

There are other fisheries in which the Commonwealth is interested which often do not get the headlines in the local papers. They are the fisheries in the Torres Strait. Under the Torres Strait Treaty, which was signed and adopted more than 20 years ago, there was an arrangement to share the fisheries in the Torres Strait area between Queenslanders, Papua New Guineans, Torres Strait Islanders and other Australians. That was followed by the Torres Strait Fisheries Act, which set up the Protected Zone Joint Authority, an authority which manages the fisheries in the Torres Strait.

The Protected Zone Joint Authority, or PZJA, as it is referred to, consists of the Commonwealth minister—in this case, me—as the chairman and the Queensland minister for fisheries as the other member. Last year I brought amendments to this parliament to include in the membership of the PZJA the chairman of the Torres Strait Regional Authority. So, at the present time, the Torres Strait fisheries are managed by the PZJA, consisting of me; Mr Gordon Nuttall, the Queensland minister; and Mr Toshie Kris, the chairman of the Torres Strait Regional Authority.

Under the Torres Strait Treaty and the Torres Strait Fisheries Act, the PZJA is required to have regard to the development of Torres Strait Islanders in the decisions it makes. It also, obviously and quite clearly, has to have regard to the sustainable management of the fisheries in that area. There are some very good fisheries up in that area: the tropical rock lobster fishery; the coral trout fishery, which is part of the finfish fishery; and the Torres Strait Prawn Fishery. All are quite valuable fisheries, bringing in some export dollars and, in some areas, helping the islanders to attain very useful employment.

Over a number of years there has been a simmering problem between some of the islanders and some of the commercial fishermen about where the non-islander commercial fishermen have been fishing. There have been allegations that this has been ruining the livelihood and indeed the pleasure fishing of some of the islanders. It has been the source of some quite nasty incidents. There have been threats of violence and even more; the police have been called. This issue has been very contentious in the Torres Strait
Islands for a number of years. There has also been an ongoing demand for greater islander involvement in these fisheries. But, of course, there were a lot of non-islander fishermen already legally licensed to fish in the Torres Strait, and it is not appropriate to just throw them out and give all the fisheries to the islanders.

For many years the PZJA has been grappling with this issue of how to address the Torres Strait fishing issues as they arise: sustainability, islander involvement and fairness to all concerned. I am pleased to say that about a month or so ago the PZJA was able to announce a new regime in the Torres Strait. With money principally from the Commonwealth government, some from the Queensland government and some from the Torres Strait Regional Authority, we have put together a package whereby we will buy from the existing non-islander fishermen sufficient licences to enable the islander fishermen to have a 50 per cent interest in the rock lobster fishery and the finfish fishery. We have also made some arrangements to bring the Torres Strait Prawn Fishery to a sustainable state and to do some things that should have been done when the treaty was first announced 20 or more years ago, which we are able to do with some money, to be fair to the Australian fishermen but to make sure that in future the fishery will be sustainable.

With all of those fisheries we will be, over the next few months, using an open tender system for existing non-islander fishermen to tender their licences to the authority. The authority will then, using the money of the Commonwealth, Queensland and the TSRA, buy out licences not only to get the fisheries back to a sustainable state but also to ensure that, in respect of those valuable rock lobster fisheries and the finfish fishery in the Torres Strait, the islanders, for the first time ever, will have a guaranteed 50 per cent share of the action in the Torres Strait. The rules provide that the islanders can buy more than 50 per cent, should they want to in the future.

The Howard government is very pleased to be part of this process. In the Torres Strait there is not a lot of commercial and economic activity that can continue. I think tourism has a future, but it is only a fledgling industry up there and there are a lot of problems to overcome. Because the Torres Strait Islands are mainly small islands, there are not many opportunities for agriculture, manufacturing or processing. There is not a big call for service industries. So the only real industry the Torres Strait Islanders have that can take them economically into the 21st century is the fishing industry. In the past they have not adopted the economic use of the industry, but I am quite certain that, with help from the PZJA and the Commonwealth government, this will occur in the future.

The decisions that have been made by the PZJA have not been easy. It is easy to talk about them for 10 minutes in this chamber; it all seems pretty easy and matter of fact. But one must understand the sentiments in the islands, the wishes and aspirations of the islander people and the rights of the non-islander fishermen to their fishing licences. There has been a very difficult and quite lengthy set of negotiations over many years. It has now reached a stage where, if I might borrow someone else’s words, peace in our time has broken out in the islands. The islanders will have the opportunity for very successful and meaningful economic development in the future.

This is an indication that, given goodwill and a lot of hard work by a lot of people, you can achieve a result that is good for people, good for the environment and good for the economy—in this case, the economy of a particular locality. I particularly want to thank Mr Toshie Kris; Mr Wayne See Kee,
the CEO of the TSRA; all my officials; the AFMA officials; the Queensland government; the former minister, Mr Henry Palaszczuk, who was around for most of this; and the current minister, Mr Gordon Nuttall, for their work and the great work that has been achieved in getting these fisheries working on a sustainable basis that will provide a future for the islanders in that area.

QUESTIONS WITHOUT NOTICE

Workplace Relations

Senator HURLEY (2.00 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Is the minister aware of Catholic Welfare Australia’s concern that those Australians who are targeted under the government’s welfare changes are already living below commonly accepted poverty lines? Is the minister also aware of Catholic Welfare Australia’s fear that the welfare changes will push single parents and people with disabilities further into poverty and that ‘any reduction in personal income in these circumstances will have direct effects on household spending on necessities ... with children in these families most dramatically affected’? Why is the government so intent on driving Australian children into poverty by dumping their parents onto the lower income of the dole instead of the pension after 1 July 2006?

Senator ABETZ—One detects that the honourable senator would not have voted for Mr Latham in the leadership competition because she did not end her question, with the usual tactic of those opposite, by trying to suggest that it was somehow a US type system. It is interesting to observe that those opposite who would try to make the US link were all the ones that voted for Mr Latham. But the likes of Senator Conroy, who is now very busy with his head down, Senator Hutchins and others, of course, would not use that. I also note that the questions no longer have the term ‘extreme’.

In relation to the Catholic welfare sector, I indicate to the honourable senator that we always look at the comments from any organisation with the appropriate respect that a particular organisation might deserve and warrant. I say to senators opposite that those in the Labor Party do not have a mortgage on concern and compassion for those that are living on low means. That is why we have a strategy called Welfare to Work, in order to lift people out of the low income levels from social security and into work where they will be able to sustain themselves and enjoy a higher level of income. I understand the Catholic welfare sector expressed some fear that this might happen. With great respect to that organisation, and others like it, I heard very similar language employed by those organisations expressing those same sorts of fears about the goods and services tax. They have never apologised to the Australian community about their expression of fears. Indeed, as we now know, instead of one million Australians living on the poverty line on unemployment benefits, we now have halved that number as a result of our policies.

I am willing to accept that this particular organisation is genuinely motivated and well meaning in its expression of fears in this regard, but I remind them that they were similarly well motivated some years ago when similar concerns were expressed about the introduction of a GST. Those fears were not realised. Indeed, the Australian population, by any measure of poverty, is now substantially better off. The great thing has been that, yes, the rich have got richer but, at an even faster rate, the poorer have been getting richer as well. As a result, everybody in Australia has shared in the increased wealth of the nation, including, might I add, the pensioners of this country, because we were able to link the pension to the male total average
weekly earnings, MTAWE, which has delivered a real increase to the pensioners of Australia above and beyond the consumer price index, something which Labor could never do during their 13 years of mismanagement of the Australian economy. Those opposite have all the propaganda; we deliver. (Time expired)

Senator HURLEY—Mr President, I ask a supplementary question. If the minister does not accept the view of Catholic Welfare Australia, does the minister agree with the member for Pearce, who said, in speaking on the bill today, ‘I am deeply concerned about the cut in income support ... I am deeply concerned about the effects this ... might have on children’? Does the minister accept Mrs Moylan’s conclusion that the income cuts contained in the government’s package do not deserve the support of parliament? Why is the government so intent on forcing through savage and extreme welfare cuts that the churches and its own backbench know will have the effect of increasing child poverty?

Senator ABETZ—They could not help themselves. She must have overlooked the word ‘extreme’ in the original question and quickly slipped it in so that she would not get into trouble with the Opposition Whip for not having used the word. But, of course, she will be in trouble with the union bosses for not having used the term linking it to a US type system. I am not aware of the comments of the member for Pearce, but I am aware of the comments of many members about the leadership of Mr Beazley and the direction in which he is taking the Australian Labor Party at the moment. Until such time as the Australian Labor Party actually come up with an alternative policy, other than a slogan that was announced today, I suggest to them that they have no right to even engage in this debate.

Workplace Relations

Senator SANTORO (2.07 pm)—My question is to the Special Minister of State, Senator Abetz, representing the Minister for Employment and Workplace Relations. Minister, what evidence is available to support the need for further labour market reform in Australia? How is the Howard government responding to this evidence? Is the minister aware of any alternative policies?

Honourable senators interjecting—

The PRESIDENT—Order! I will call the minister when the chamber comes to order.

Senator ABETZ—Thank you, Mr President. It is a pleasant change to have the chamber so quiet when I am on my feet.

Honourable senators interjecting—

Senator ABETZ—I was testing fate, wasn’t I? I thank Senator Santoro for his question and acknowledge the wonderful reforms that he introduced in the state of Queensland whilst he was the Minister for Training and Industrial Relations, reforms which are allowing the people of Queensland to benefit in relation to the economic boom they are experiencing at the moment.

What is the evidence for the need for labour market reform? Those opposite, including my good friend Senator Murray, continually say there is no empirical evidence to suggest the need for labour market reform. There are in fact no less than 84 academic studies supporting the need for further reform of the labour market. I am not talking about the sorts of dodgy academic studies which those on the other side commission, like left-leaning former trade union activists. I am talking about real empirical research, evidence like macroeconomic data which compares the 1982 to 1993 period, pre reform, to that of the post-1993 reforms, evidence which shows that, among other things, employment growth was 1.6 per cent before
reforms and 2.2 per cent after; inflation was 6.6 per cent per year before reforms and only 2.3 per cent after; interest rates were 12.8 per cent before reforms and 2.3 per cent after; and, finally, real wages, which fell 1.4 per cent before reforms—

Senator Sherry—Do you want to mention national debt?

The President—Senator Sherry, shouting across the chamber is grossly disorderly and I ask you to come to order.

Senator ABETZ—For the benefit of Senator Sherry, I will repeat myself: finally, real wages, which fell 1.4 per cent before reforms, grew by 14.3 per cent after reforms. Or how about the international academic research which shows that less labour market regulation is clearly associated with better economic performance—for example, such as in New Zealand, which has the lowest unemployment rate in the OECD—and evidence which shows that, unless further labour market reforms are undertaken in this country, our standard of living will fall?

The evidence is clear. It shows that workplace relations reforms reduce unemployment, reduce poverty, increase wages, improve job security and lift living standards. That is why the government is pursuing further reforms with Work Choices—to ensure prosperity for the future of all Australians. Given the weight of all this evidence, I suggest that those opposite are like ostriches seeking to hide by putting their heads in the sand. But the Chicken Little or Ossie Ostrich approach of those opposite is, as I characterised it yesterday, the son of roll-back, or ‘rip-up’. This is a policy which I predict Labor in fact will adopt, like Mr Blair did in the United Kingdom, Helen Clark did in New Zealand and Premier Steve Bracks did in Victoria.

The OECD has just released its six-monthly economic outlook and I quote from it:

Rapid implementation of the planned industrial relations reform … would promote productivity gains …

So I urge all those on the other side, including the Australian Democrats, to accept the 84 studies and the need for industrial reform.

Distinguished Visitors

The President—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the Democratic Republic of Timor-Leste, led by Mr Faustino Godinho da Costa MP. On behalf of all senators, I wish you a very warm welcome to Australia and, in particular, to our Senate.

Honourable senators—Hear, hear!

Questions Without Notice

Welfare to Work

Senator WEBBER (2.12 pm)—My question is also to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Can the minister confirm that there will be a $51 cut in fortnightly benefits paid to sole parents who go onto Newstart instead of the parenting payment single after 1 July 2006 and an $84 cut in fortnightly benefits for people with disabilities who go onto Newstart instead of the disability support pension after 1 July 2006? Don’t figures provided by the Department of Employment and Workplace Relations reveal that the impact of these cuts will be to deliver $1 billion worth of savings back to the government in the three years to 2008-09? Can the minister now explain why the government has been so keen to hide the massive $1 billion worth of savings that it will reap by slashing benefits paid to around 140,000 sole parents and people with a dis-

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ability who will get the dole rather than the more generous pension after 1 July 2006?

Senator ABETZ—I have been at pains over the last few weeks to point out that we are making a $3.6 billion investment in the people of Australia who are not with a job at the moment. That $3.6 billion is an investment in all those individual Australians who are capable of doing work but at the moment are not engaged in the work force. As the Labor Party finally conceded the other day, it is vitally important, if we are to engage people in the benefits of Australian society generally, that we engage them in the work force. That is a key indicator of future prosperity and future wellbeing, not only for those that work but also for the children in that family or home unit.

We have made a $3.6 billion investment. It might come as a surprise to those opposite but, when we from time to time make an investment, we also think that there might be a return on that investment. In this case, the return on the investment is in the wellbeing of every single Australian that we are able to move from welfare into work. Of course, the more people that are in work, the lower the liability to the Australian taxpayer in relation to social security payments. It just confirms once again that the Labor Party’s policy is to keep the people on welfare, to throw money at them, to wash your hands and say you have done your duty. We say that that is not good enough. We say that those individual Australians who do not have a job deserve more than welfare.

Senator Chris Evans—Mr President, I rise on a point of order. It goes to relevance. The minister was asked a very specific question about whether or not he could confirm that $1 billion worth of savings will flow to the government because they are paying people less in benefits after 1 July 2006. Could you draw him to that question and ask him to answer whether or not, in addition to $3.6 billion of expenditure, there is $1 billion in savings by paying people less in income support?

The PRESIDENT—The minister has almost two minutes left to answer the question. I remind him of the question and also remind senators of what happened yesterday. Continual points of order do mean reduced questions.

Senator Conroy interjecting—

The PRESIDENT—I don’t need any advice, thank you, Senator Conroy.

Senator ABETZ—For the benefit of Senator Evans, I will repeat myself. It is a pity, because I think most of his colleagues understand, but he does not seem to understand. What I was indicating was that a $3.6 billion investment in relation to those people who are currently without work is designed to also get a return. We on this side do believe in returns on investment. Our first return on investment is not to be considered in monetary terms but in social terms. That is why I was at pains to point out the benefits to the individual Australians who will benefit from that $3.6 billion investment into work. They will be moving off welfare into work. It stands to reason that, when people move off welfare into work and self-sustaining funding, there will not be as much money needed to pay them welfare. As a result, there will be taxation benefits to fellow Australians. It is part of our mutual obligation belief that—

Senator Chris Evans—Do you know the answer or not? Do you have any clue? You are the responsible minister.

The PRESIDENT—Order! Senator Evans, I remember remarks you made here this morning about conduct of senators in this place. I would hope you would be like-minded.
Senator Chris Evans—Mr President, on a point of order: I accept your decision, but I do point out that I raised a point of order earlier in order to get the minister to focus on the question. We will not bother asking questions unless there is some requirement for ministers to answer them. At the moment, we are not getting any attempt to answer the question. I accept your ruling, Mr President, but I do point out that frustration flows from the failure of the minister to answer the question.

The PRESIDENT—I cannot direct the minister how to answer the question; I can remind him of the question. I continually do so. I also remind the minister of relevance.

Senator ABETZ—How very patronising of the Leader of the Opposition in the Senate to accept your ruling, Mr President. In relation to the matter that was raised, I confirm again that, yes, there will be savings made, because we do expect returns on our investment, but the most important return on our investment is not to be considered in monetary terms, as those opposite would like to portray; the return on investment that we are seeking is the social one.

Senator WEBBER—Mr President, I ask a supplementary question. I note that the minister has refused to deny the fact that part of the savings will come after 1 July 2006 by paying people less fortnightly in benefit. Isn’t it the case that the $1 billion worth of savings that the government stands to reap from its welfare changes will come directly out of the pockets of people with disabilities and sole parents who go onto the lower dole payment instead of the pension if they apply for income support after 1 July 2006?

Senator ABETZ—I do not know what the basic mathematics was for Senator Webber when she went to school but, put very simply, if we are ‘pulling’, to use her term, $1 billion out of the pockets of welfare recipients, she should be honest enough to say that that $1 billion being pulled out is in fact being replaced by $3.6 billion that we are investing in them. Until such time as those opposite are willing to give a true and balanced focus on what we are actually doing, they are continuing to mislead the Australian people. I suggest that Senator Webber get the figure of $3.6 billion, take $1 billion off that, and conclude that the welfare recipient community will still be $2.6 billion better off.

Future Fund

Senator FIFIELD (2.20 pm)—My question is to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the importance of establishing the Future Fund to meet the government’s future obligations? Is the minister aware of any alternative policies?

Senator MINCHIN—I thank Senator Fifield for that very good question. As most know, this government has been very successful in reducing net debt from the $96 billion debt that we inherited from Labor to only $12 billion, and we expect to eliminate that debt next year. By virtue of that, we have cut the annual interest bill by $5 billion a year. Our net debt as a percentage of GDP is now down to just 1.3 per cent. The OECD average is 48 per cent. The US has a net debt of 50 per cent of GDP. Europe’s is 58 per cent and Japan’s is 82 per cent. By reducing our net debt to negligible levels, we are in a much better position than those countries to face the demographic challenges that all Western nations face.

Senator Conroy interjecting—

The PRESIDENT—Senator Conroy!

Senator MINCHIN—The net debt is just one of our liabilities. Over 100 years, this nation has built up unfunded superannuation liabilities of some $91 billion today. We expect that to grow to $140 billion. These liabilities must be paid to former public ser-
vants. At the moment, that is costing us $4 billion a year off the budget, and that will rise to $7 billion a year every year by 2020. That is the very reason why we have decided to create a future fund—that is, to meet that liability of the unfunded superannuation. It is a very important step in meeting the task of facing our demographic challenge.

The Future Fund will receive the surpluses from the annual budget and the proceeds of asset sales. By doing so, we can meet that unfunded superannuation liability. But the unfunded super liability can only be met if we ensure that the earnings of this fund are reinvested into the fund. That is obviously a function of compound interest, which most people understand. But, unfortunately, the Labor Party do not understand the principle of compound interest. They simply do not understand the obligation we have to meet this unfunded liability and how we should go about doing it. Extraordinarily, last week, the Leader of the Opposition announced that Labor’s policy in relation to our Future Fund is to actually spend all the earnings of the fund. Yes, they will keep a fund, and whatever is in it—

Senator Conroy interjecting—

The PRESIDENT—Senator Conroy!

Senator MINCHIN—in fact, a substantial loosening of annual fiscal policy.

Senator Conroy—Rubbish!

Senator Sherry interjecting—

The PRESIDENT—Senator Sherry!

Senator MINCHIN—it will mean more government spending, by virtue of them spending the earnings rather than their being reinvested into the future fund. Of course their policy would cripple Australia’s capacity to meet the challenge of an ageing population. Labor has consistently opposed all our efforts to reduce government debt, having left it to us for the future. And now their policy is to make it impossible for Australia to meet the unfunded super liability. Unlike Labor, the coalition is very focused on this very substantial challenge that we have of an ageing population, and our Future Fund is a vital part of meeting that challenge.

Workplace Relations

Senator STEPHENS (2.24 pm)—I, too, have a serious question to ask of Minister Abetz, the Minister representing the Minister for Employment and Workplace Relations. Is the minister aware of concerns expressed by the Christian Reformed Churches of Australia in New South Wales about the government’s industrial relations policies? Does the minister support the church’s view that workers should not be compelled to work on Sunday, especially when their original terms of employment included such a provision? Does the minister also accept that the desire
of employees to be free to worship on Sunday should not be allowed as a valid reason for discrimination against workers in any way, including the decision to employ a new employee? Is it the government’s intention that freedom to worship and practise spiritual and religious convictions not be overruled but instead protected by its industrial relations policies?

Senator ABETZ—Allow me to declare an interest right up front. Undoubtedly, those on the other side have done their research. I am a member of the Christian Reformed Churches of Australia, and I have a brother who is a minister of religion in those churches. So I will get that out of the way, in case somebody wants to spin it.

But Senator Stephens said that she, too, had a serious question. The only question to which she could have related that must have been Senator Santoro’s question, because that has been the only other serious question I have had today in question time. If Senator Stephens was genuinely concerned about people working on a Sunday, especially about the need for people to go to church, she might like to explain to the Christian Reformed Churches of Australia, and indeed everybody else in New South Wales, why her state Labor government is going to be opening the pubs for open-slash trading for Sundays.

Honourable senators interjecting—

The PRESIDENT—Order!

Senator ABETZ—Those opposite—

Senator Conroy—Mr President, I rise on a point of order—

The PRESIDENT—Senator Conroy. I cannot hear your point of order for your colleagues’ shouting.

Senator Conroy—I cannot hear you for the shouting over there, Mr President.

The PRESIDENT—Resume your seat, Senator Conroy. On the previous question, you interjected over 20 times. You have been very disruptive throughout question time. I am willing for you to make your point of order, but if I have any more disruption from you today, I will have to name you.

Senator Conroy—Thank you, Mr President. My point of order goes to relevance. While I admit it is very interesting to learn about what the Tasmanian government are up to in terms of deregulation or otherwise of public—

Government senators—New South Wales!

Senator Conroy—or New South Wales—

The PRESIDENT—Order!

Senator Conroy—While I am interested in all of those things, I was wondering if you might draw the attention of the minister to the question from Senator Stephens, which was about a very specific matter.

The PRESIDENT—Senator Abetz, you have two and a half minutes.

Senator ABETZ—Thank you, Mr President. I can understand the embarrassment of Senator Conroy, but it is now, of course, compounded. I was not referring to the state of Tasmania. I was referring to the state Labor government of New South Wales, a Labor Party that used to have as its President, if not still at the moment, one Senator Ursula Stephens—

Senator Conroy—Mr President, on a point of order: I am wondering whether it is relevant to the question whether Senator Stephens was the President of the New South Wales branch of the Labor Party or not. I thought you might like to make a ruling on that.

The PRESIDENT—There is no point of order. Senator Abetz, you have two hours—
minutes and 22 seconds. I would ask you to return to the question.

Senator ABETZ—Mr President, I wish I did have two hours, because what I am pointing out is the absolute duplicity and hypocrisy of those who profess to argue that somehow people should not have to work on a Sunday but then deliberately pursue policies that allow pubs and gambling venues to be open on a Sunday. How are people going to be served the beers in the pubs in New South Wales on a Sunday? By robots, no doubt. Can I suggest that they are going to be served by workers? And why will they be required to work in pubs in New South Wales on a Sunday? Because of state Labor’s policy. This is the problem when you operate in a policy vacuum, as the Labor Party does.

Senator Chris Evans—Mr President, on a point of order: this goes to the question of relevance. The minister has had about three minutes. Senator Stephens raised the concerns that the Christian Reformed Churches have expressed to all senators in writing regarding the government’s industrial relations policy. Those concerns were taken up by Senator Stephens in her question. The minister has made no attempt to respond to those concerns, which are legitimate concerns. I ask you to require him to return to the question, because all he has done is seek to abuse Senator Stephens and others, and has made no attempt to answer the question.

The PRESIDENT—The minister has a minute and a half, and no doubt he will have a supplementary question as well, about the same matter, but I would remind the minister of the question once again.

Senator ABETZ—Mr President, the question was about the attitude of the Christian Reformed Churches to workers having to work on a Sunday, with Senator Stephens pretending to champion that cause. What I am pointing out to the Senate and the people of Australia is that her own state Labor government of New South Wales is opening the pubs and clubs on Sundays—

Senator George Campbell interjecting—

The PRESIDENT—Order!

Senator ABETZ—which will mean more people will have to work on Sundays. So she cannot have it two ways, Mr President. And that is the total problem of those opposite: they operate in a policy vacuum—

Senator George Campbell interjecting—

The PRESIDENT—Senator George Campbell!

Senator ABETZ—they jump onto one bandwagon, thinking they can make a cheap political point, without realising—

Senator George Campbell interjecting—

The PRESIDENT—Senator Campbell, I ask you to come to order.

Senator ABETZ—the consequences of foolishly entering into a debate of which they have no understanding. Mr President, I personally happen to believe in Sunday observance. I happen to believe it is very important. But I will not be in a position to legislate for all Australians that they have Sunday observance—for people who profess the Christian faith, as I seek to do—inasmuch as we do not do it for the Jewish community on a Saturday or for Seventh Day Adventists on a Saturday. If there is to be consistency in the argument of the honourable senator, we would need to legislate for everybody’s potential religious belief. The great thing about Work Choices is that there is flexibility and workers can work it out with their bosses. (Time expired)

Senator STEPHENS—Mr President, I ask a supplementary question. If I could begin by reiterating the question: is it the government’s intention that freedom to worship—
Government senators interjecting—

The PRESIDENT—Order!

Senator STEPHENS—and practise spiritual and religious convictions not be overruled but instead protected by its industrial relations policy? That was the question. Does the minister support his backbench colleague Senator Santoro, who said that the views expressed by the Uniting Church of the government’s policies are ‘fundamentally dangerous’—his words? Does the minister believe that groups like the Uniting Church and the Christian Reformed Churches have no right to put their point of view about how they see the impact of government policy on family life and religious observance?

Senator ABETZ—I will not accept the President of the New South Wales Labor Party’s comments in relation to what Senator Santoro said, because I have a funny feeling that she is trying to verbal him. In relation to the views of the Christian Reformed Churches, they undoubtedly have a right to put that view. But, with great respect, I happen to disagree with them, and I trust that they have written to every New South Wales MP protesting about the state Labor government’s policy on opening pubs on a Sunday. The good thing about Work Choices is that it allows employers and employees to sit down together and work out that which is needed. I believe that members of the Christian Reformed Churches of Australia would make very good employees, and employers would be more than willing to accommodate them. (Time expired)

Rural and Regional Health Services

Senator NASH (2.33 pm)—My question is to the Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues, Senator Patterson. Will the minister advise the Senate of initiatives by the federal government to provide improved medical services to people living in rural and regional Australia?

Senator PATTERSON—I thank the honourable senator for her question and I acknowledge her interest in rural issues, in particular rural issues relating to health. We are very proud of the record of investment in rural and regional health services. Since 1996, there has been a 20 per cent increase in the number of doctors in country areas. In New South Wales, there has been a 5.5 per cent increase in bulk-billing rates since 2003, to over 81 per cent, and in rural and remote areas of Australia the bulk-billing rate has increased by over 15 per cent.

We are investing $830 million over four years under the Rural Health Strategy, which is aimed at improving the general health and wellbeing of rural Australians. This strategy will provide a flexible package of health, aged care and work force initiatives to increase their access to services. Under the strategy, 2,000 long-serving rural doctors are receiving bonus payments of up to $25,000 per year to encourage them and to keep them practising in rural areas. One thousand one hundred rural practitioners have nurses—these are practice nurses in rural practices—and there are 600 allied health professionals working with country GPs. It makes a huge difference to those GPs to have that assistance.

There are 11 rural clinical schools, including the University of Sydney Dubbo rural clinical school, with nodes in Dubbo, Orange and Bathurst. I think having these rural clinical schools throughout Australia is one of the major measures that the Howard government has put in place to encourage young people to study in rural areas. When you visit, for example, the rural school in Wagga, the students tell you they do not want to go back to the city—even city students. So it is a tremendous initiative which is now having real
dividends. Twenty-five per cent of medical students are required to do at least 50 per cent of their clinical training in country areas and, since 2001, there have been 346 additional medical school places in Australian universities, each one bonded to country practice or practice in areas of workforce shortage.

From next year, the Howard government will provide $4 million for a new rural undergraduate allied health scholarship scheme. There will be up to 180 scholarships a year, worth $10,000 per annum. There is solid evidence that rural students are more likely to seek and maintain employment in a rural area after completing their studies. Supporting students from rural areas, this scheme will help to improve future recruitment and retention of allied health professionals in rural and remote areas. These new scholarships complement the government’s existing allied health postgraduate scholarships and also supplements the government’s allied health professional measure announced as part of the ‘Strengthening Medicare’ policy. The measures that I have outlined form just a part of the excellent record of the Howard government in delivering better health and medical services to people in rural and regional Australia.

**Distinguished Visitors**

The President—I draw the attention of honourable senators to the presence in the chamber of a delegation from Israel, led by Mr Reuven Rivlin, Speaker of the Knesset. On behalf of all senators, I wish you a very warm welcome to Australia, and particularly to our Senate. With the concurrence of honourable senators, I propose to invite Mr Rivlin to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

Mr Rivlin was seated accordingly.

**Questions Without Notice**

**Australian Research Council**

Senator Stott Despoja (2.38 pm)—My question is addressed to the Minister representing the Minister for Education, Science and Training. I refer to Minister Nelson’s decision to interfere with seven projects recommended for funding by the Australian Research Council. Is the minister aware of comments by a number of people, including former ARC Chief Executive Officer, Professor Vicki Sara, who said:

> Political interference in that process would damage our international reputation and steer us down a middle-of-the-road, conservative research path …

And there were similar comments by the Australian Vice-Chancellors Committee CEO, John Mullarvey, who said:

> Any minister should not have the ability to interfere with this process … However, in the event that a minister does interfere, there ought to be transparency.

I ask the minister: what transparent processes will be developed for allocating research grants, and will the details of decisions by Minister Nelson be made public and published in the ARC annual report?

Senator Vanstone—I thank the senator for the question. I have not seen remarks by Professor Sara or, for that matter, by John Mullarvey from the Vice-Chancellors Committee in relation to alleged political interference by the minister.

Senator Carr—It is not alleged.

Senator Vanstone—I am sorry, Senator?

Senator Carr—It is a proven fact.

The President—Senator Carr!

Senator Vanstone—The senator obviously has a view. In relation to Senator Stott Despoja’s question, there is often debate over the degree to which people should
be given money and allowed to do what they like with it. But there is an obvious requirement of accountability. The government does have to account to taxpayers, through the parliament, for what it does with taxpayers' money. There are obviously quite reasonable situations where the minister is required to set some parameters on how money is used. I make that point generally. I have not seen what Professor Sara said or what John Mulvaney said. The minister has not provided a brief on that issue, so I will ask him if he has got anything to say to help you.

Senator STOTT DESPOJA—Mr President, I ask a supplementary question. I thank the minister for that undertaking and ask the minister: given that she has stated to the chamber that the minister has to work within certain parameters, will the government publish in detail why exactly projects are or are not rejected? Specifically, will the government now make public, and publish in the annual ARC report, the specifics as to why these seven projects, which were approved for funding by the ARC, were rejected by the minister. They were recommended for funding and approved for funding—but not by the minister.

Senator VANSTONE—As I recall, there was one occasion when I was education minister when I refused an ARC proposal. It was an ARC recommendation. The system is not set up whereby there is a bucket of money and people can do as they choose. We do have a system whereby people who are qualified in the field make recommendations. But that is not the same as the right to do as they choose. So I will refer your question to Dr Nelson and see if he can assist.

By way of interest in this matter, I have a very strong interest in basic research and the need to have it applied in the future. And you may care to know, Senator, that in 1996 the Australian Vice-Chancellor's Committee put a proposal that government savings in terms of education should come out of the research budget rather than out of the operating budget. (Time expired)

Fishing Industry

Senator MASON (2.42 pm)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald. Will the minister update the Senate on the Howard government's Securing our Fishing Future package which was announced last Wednesday?

Senator IAN MACDONALD—Senator Mason, as he travels around Queensland—as I know he does often—will understand the importance of fishing, in all of its forms, to the economy of Queensland and, indeed, of Australia. It is not every day that you can get commercial fishermen, recreational fishermen and conservationists to agree on something, but I am delighted to say that that is exactly what the Howard government has been able to do. The $220 million Securing our Fishing Future package that I announced last Wednesday is the most significant fisheries adjustment package in the history of Commonwealth fisheries.

The reaction to the package has been fairly positive all round. In addition to endorsements from the Australian Seafood Industry Council, the Humane Society International, the Australian Conservation Foundation, recreational fishermen and other fishing
leaders, the World Wide Fund for Nature said:

This bold pledge aims to restructure fisheries management arrangements in order to rebuild healthy marine ecosystems and healthy fish populations in Australian Commonwealth waters.

The Australian Marine Conservation Society said:

This package now gives us an opportunity to help improve the management of our fisheries and to better protect Australia’s fragile deep water habitats.

The South East Trawl Fishing Industry Association said, ‘SETFIA applauds the government’s commitment to ecologically sustainable fisheries, which go hand in hand with an economically viable fishing industry.’ The Commonwealth Fisheries Association said: ‘The government has obviously listened to representations from a range of stakeholders, including industry managers, researchers and conservationists involved in these fisheries.’

Over the next few months, the Australian government will be consulting with industry and conservationists on the design and implementation of this package. We will also be putting in place a range of measures to ensure that, even if we live as long as the orange roughy—and that is 150 years, Mr President, as you would well know—we will never again see overfishing in Commonwealth fisheries. To put it another way, you could say that overfishing in Commonwealth waters is now as dead as the bullyboy union dominance of our workplace will be once our workplace reform legislation is passed.

The Securing our Fishing Future package builds on the Howard government’s well-deserved reputation for being able to balance the protection of our environment with the needs of industry and regional communities. These achievements are part of the reason Australians are coming to realise that the Howard government is the greenest government ever in Australia’s history. Only the Howard government understands what it takes to look after the environment whilst also sustaining our industry, our jobs and particularly our regional communities. Of course, it all starts with keeping the economy strong. That is what the Howard government is about: economic strength, border security, protecting our future and protecting our industries like fishing.

Mr Robert Gerard

Senator SHERRY (2.46 pm)—My question is to the Minister for Finance and Administration, Senator Minchin, representing the Treasurer. Did the minister have any discussions with the Treasurer or the Prime Minister regarding the appointment of Mr Gerard to the Reserve Bank board either before or after cabinet considered the Treasurer’s proposal? Were the details of tax office investigations into Gerard Industries’ tax avoidance schemes raised during these discussions, including that they involved deliberate behaviour by Mr Gerard to establish an avoidance scheme using tax havens in the Caribbean islands and making false and misleading statements to tax office auditors? Can the minister confirm that he expressed his concern to the Treasurer about the propriety of appointing someone facing unresolved tax allegations to the Reserve Bank board?

Senator Hill—Mr President, it may be that Senator Minchin wants to answer the question, but it does strike me that it is not strictly within his portfolio. I would ask you to consider whether the question was in fact in order.

The PRESIDENT—I think the question is in order, because he does represent the Treasurer in this place.

Senator MINCHIN—Mr President, I am happy to answer the question, although the question was asked to me as the Minister representing the Treasurer and then he asked
me about my personal conversations with the Treasurer. So the question was very badly worded at least and probably is out of order at worst. Nevertheless, let me say that, as far as I am concerned, the process by which Mr Gerard was appointed to the Reserve Bank board was proper and in accordance with normal procedures, and was subject to proper cabinet consideration and cabinet agreement. Mr Gerard, in the view of the government, remains a fit and proper person to serve on the Reserve Bank board. All the Labor Party is trying to do is create as much political flak as they can because Mr Gerard has publicly declared his support for the private enterprise party of this country, and that is the Liberal Party. This is a witch-hunt being directed at Mr Gerard for partisan reasons, which is beneath contempt.

Senator SHERRY—Mr President, I ask a supplementary question. I ask again: can the minister confirm that he did express serious concerns to the Treasurer and the Prime Minister about the appointment of Mr Gerard? Didn’t the minister also express these concerns during the cabinet discussion about the appointment of Mr Gerard? Were the minister’s serious concerns based on the tax scam, on the minister’s longstanding antipathy to Mr Gerard in South Australian Liberal politics or on his knowledge that Mr Gerard donated more than $1 million to the Liberal Party in South Australia?

The PRESIDENT—Minister, I do not believe some of those issues are in your portfolio. If you wish to answer the ones that are relevant, you may.

Senator MINCHIN—Mr President, I think that question is out of order, but let me say for the record that I do support Mr Gerard’s appointment to the Reserve Bank board. I continue to believe, as does the government, that he is a fit and proper person to serve on the Reserve Bank board.

East Timor

Senator BOB BROWN (2.49 pm)—This question is to the Minister representing the Minister for Foreign Affairs. Is he aware that the minister last year, on the 56th anniversary of the adoption of the Universal Declaration of Human Rights, in announcing grants to human rights groups in the poorest country of our region, East Timor, said that Australia has a proud tradition of protecting and promoting human rights and of supporting grassroots organisations that do so? Is it true that the government has since stripped that funding from the 13 struggling organisations in this new democracy to our north because they dared to sign an advertisement which was critical of the Australian government about East Timor oil and gas resources? Will this shameful action by the Minister for Foreign Affairs be reviewed, and will the government restore this funding to these much-needed organisations in this fledging democracy?

Senator HILL—I would need to refer the detail of the question to the Minister for Foreign Affairs, but, speaking generally, Australia has been a strong contributor to the new country of East Timor. In fact, it would not today be an independent state if it were not for the contribution of Australia. The Howard government showed great courage in its decisions in relation to East Timor—courage that was never shown by the Australian Labor Party, I might say, in its 13 years in office. The brave and courageous Australian Defence Force supported the government and helped the East Timorese achieve a just independence.

Since then, the Australian government has been East Timor’s strongest supporter in helping it build a viable state. That is a difficult challenge for any new country, but for one that is economically poor and small, such as East Timor, it is doubly difficult. We
recognise that. It is a neighbour. It is in need of support, and our government will continue to support it. I need only reflect upon my own portfolio. It is the ADF that is helping the small East Timorese defence force establish itself with training. I recall that only last night I signed another brief to provide further support for the fledgling East Timorese defence force. The same principle applies across the portfolio areas in relation to East Timor. So, in relation to the specific grants of which Senator Brown is speaking, I will seek an answer. But, in general, I can assure him that Australia stands behind East Timor, will support it and recognises the challenges it faces, and that East Timor will find no better friend than this country.

Senator BOB BROWN—Mr President, I ask a supplementary question. At the time of this savage take-back of the money from the East Timorese groups by AusAID as directed by the minister, I ask the minister: what is the point of this puerile, pointless pencil distributed from AusAID today to recognise the 12 million people living with AIDS in the South-East Asian region? Would it not have been much better to have spent this money on the purchase of condoms or, indeed, on directly fighting the scourge of AIDS in our north instead of this self-promotion by the government in this pointless fashion?

The PRESIDENT—That sounds to me like another question. Minister, I do not believe you have to answer it if you don’t want to.

Nursing Home Safety Standards

Senator McLUCAS (2.54 pm)—My question is to Senator Patterson, representing the Minister for Ageing. Is the minister aware of the fire in a Melbourne residential aged care facility on the weekend—where, thankfully, all residents were evacuated safely—which highlights the need to enforce stringent fire safety standards in nursing homes? Can the minister confirm that the Minister for Ageing has stated that any facility that does not meet the government’s 1999 aged care certification standards with a fire safety requirement will have their certification reviewed? Given the 31 December 2005 deadline for compliance with this standard, will those certification reviews take place early in 2006? How will residents know if their facility has not met the fire safety standard? Will providers be sanctioned for not having complied with the standard, which was introduced six years ago? And what will the sanction be?

Senator PATTERSON—I thank the honourable senator for her question. I would like to remind the chamber that Professor Gregory wrote a report in 1994—18 months before Labor left office. I remind people that 13 per cent of nursing homes failed to meet the relevant fire authority standards; 11 per cent of nursing homes did not meet the relevant health authority standards; 70 per cent of them did not meet relevant outcome standards; and 51 per cent of nursing home residents were living in rooms with three or more beds.

Senator Carr—you have had 11 years to fix it.

Senator PATTERSON—I heard a comment from the other side that we have had 10 years to fix it. Let me just say that Mrs Bishop, the then Minister for Aged Care, closed over 200 nursing homes that needed to be closed and which should have been closed under Labor—200 nursing homes that failed to meet standards. They were appalling. You would not have wanted to put your dog in some of those nursing homes. So let’s not talk about standards; let us talk about what we have done in terms of nursing homes—

Senator Chris Evans—Mr President, I rise on a point of order: it goes to relevance.
The minister was asked a very serious question about her own government’s policy and a looming deadline relating to fire standards in this country’s nursing homes. Her raving on about what happened 10 years ago is not attempting to answer the question. Senator McLucas genuinely wants an answer as to what the government is going to do, and I think you ought to draw the minister’s attention to the question and ask her to answer it.

The PRESIDENT—Senator, as you know, there is a practice in this place of long preambles to answers, and I believe the minister was in order to make some comments about nursing homes, which the question was about. She has two minutes and 45 seconds to complete her answer, and I remind her of the question.

Senator PATTERSON—Labor does not want to be reminded about some of those nursing homes but, as a backbencher in opposition, I went around to those nursing homes, and they were disgraceful. Every Labor member should have hung their head in shame, because they failed to meet a number of the standards, including the fire standard. But while building standards, including fire safety standards, are the responsibility of the relevant state, territory or local government authority, the Australian government operates a building certification program which aims to raise the quality of residential aged care buildings. As of 30 June 2004, the estimated total work in progress for new rebuilding works was $1,214 million.

Approved providers must meet their obligations under the relevant state and local government laws. To ensure that aged care homes are meeting fire standards, the Australian government requires approved providers to submit an annual fire safety declaration which states that they have complied with all state, territory and local government fire safety laws in the previous 12 months. Declarations were received from all homes for the calendar year 2004, and about eight per cent of homes indicated they were not fully compliant with relevant state and local government laws. These declarations were referred to the relevant state or local government authority for follow-up action.

Building certification is mandatory for approved providers of aged care to be able to charge accommodation bonds and charges or to receive the government’s concessional resident supplement. Approved providers are expected to ensure that aged care buildings meet additional fire safety targets by the end of 2005, and evidence of this must be provided to the department by 31 December 2005. Privacy and space targets must also be met by 2008, as required under the 10-year forward plan for residential aged care building certification. The Australian government has provided support to the aged care industry through a one-off capital payment of $513 million, or $3,500 per resident, under the Investing in Australia’s Aged Care: More Places, Better Care package. A payment of $3,500 per resident was made to approved providers in June 2004 in recognition of the forward plan for improved building standards for aged care homes developed and agreed with the aged care sector, and, in particular, for improved fire safety.

As part of the annual fire safety declarations, approved providers are required to show how the one-off payment has been applied. Providers will also be required to provide evidence to the Department of Health and Ageing of an assessment of the aged care home against the 1999 certification assessment instrument by a professional approved by the department to undertake such inspections, which shows that the home scores at least 19 out of 25 for fire safety and 60 out of 100 overall. If such evidence is not provided by December 2005, this may result in a review of the home certification under the
Aged Care Act. We have done a lot more than Labor even contemplated doing and have cleaned up nursing homes, which were left in a disgraceful state by Labor. *(Time expired)*

**Senator McLUCAS**—Mr President, I ask a supplementary question. Can the minister confirm that the department’s web site currently shows that over 1,300 aged care facilities—that is almost half, almost 50 per cent, of all facilities—have not demonstrated compliance with the new fire safety standard? Why is it that just one month away from the deadline for compliance the only public announcement from the minister on this issue has been a short letter to the editor in the *Herald Sun*? Don’t residents and providers deserve some certainty over what will happen on 1 January 2006 to the tens of thousands of residents who may occupy beds in facilities that do not meet the fire safety standards? Minister, if you do not know the answer to these questions, will you take them on notice, particularly the issue that I raised in my first question—that is, how will the residents know if their facility has not met the fire safety standard and will providers be sanctioned?

**Senator PATTERTSON**—That was a very long supplementary question for a one-minute answer. Let me just say that they will know that they are better protected than they ever were under Labor, when, as Professor Gregory’s report indicated, aged care facilities did not meet required standards. We have put in millions of dollars to do that. I do not always take what Senator McLucas says as gospel because often it is a misrepresentation of the facts but I will pass on what she said to the Minister for Ageing and ask the minister, if she has got any more details, to give them to me to present to the Senate.

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

**QUESTIONS WITHOUT NOTICE:**

**ADDITIONAL ANSWERS**

**Genetically Modified Food**

**Senator PATTERTSON** (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) *(3.01 pm)—* Yesterday I was asked a question about allergic reactions in mice to a genetically engineered field pea developed by the CSIRO. I have a very long answer here. I am happy to read it but, to assist the progress of the Senate, I will seek leave to incorporate the answer in *Hansard*.

Leave granted.

The answer read as follows—

**SENATOR SIEWERT**—My question is directed to Senator 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?

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, the FSANZ and other independent bodies to conduct similar research in an expedient manner to ensure the safety of the Australian public?
SENATOR PATTERSON—The Minister for Health and Ageing has provided the following answer to the honourable Senator’s question:

FSANZ and the OGTR are regulatory agencies. In common with other such agencies, they do not undertake or conduct research, they evaluate applications. The data required to support applications are extensive and include studies like those referred to by the Senator. The evaluation process is intensive and includes a critical assessment of the supporting data in the context of the relevant international literature.

All genetically modified, or GM, foods included in the Food Standards Code have undergone a rigorous pre-market safety assessment conducted by FSANZ in accordance with internationally accepted standards. Inclusion in the Food Standards Code is approved by the Food Standards Ministerial Council, which consists of the Commonwealth and State Governments and New Zealand.

All genetically modified organisms, or GMOs, licensed for environmental release by the Gene Technology Regulator have undergone a thorough evaluation, involving the preparation of a comprehensive Risk Assessment and Risk Management Plan and extensive consultation with a range of expert authorities and key stakeholders, including State Governments and the public.

Neither FSANZ nor the Gene Technology Regulator would issue approvals if they were not satisfied that sufficient, scientifically credible data were available to support the decision.

Approvals of GM foods for human consumption by FSANZ are based on comprehensive, rigorous and science-based safety assessments that follow international best practice and guidelines developed by the Food and Agricultural Organisation of the United Nations (FAO), World Health Organisation (WHO), Organisation for Economic Co-operation and Development (OECD) and Codex Alimentarius Commission. These international guidelines have been adopted by food regulators worldwide, including in the US, Canada, Japan, Europe and many other countries.

Assessments of GMOs for release into the environment by the Gene Technology Regulator are equally rigorous and science-based and follow a Risk Analysis Framework using the Australia-New Zealand Standard on Risk Management that is recognised as best practice internationally.

In relation to the study in mice published by the ANU, at present there is no single test that can be used to determine if a new protein is likely to be allergenic to humans. The internationally accepted approach, which has been elaborated by the Codex Alimentarius Commission, FAO and WHO and followed by FSANZ, is to use a variety of data and information, which when considered together can be used to reach a conclusion about potential allergenicity of a new protein in food. The OGTR adopts a similar approach in evaluating non-food human health risks, as well as potential adverse impacts for other organisms in its environmental assessments.

The various animal models that are available are not considered to be sufficiently well developed or validated to use at the present time in this context. This also applies to the mouse model used in the ANU study. While the study in mice appears to have been very carefully planned, conducted and reported, the animal model used has not been validated to predict human immune or allergic responses to food. CSIRO has also emphasised this point that no conclusions could be drawn about whether actual harm to humans would occur if the GM peas were consumed by people. CSIRO’s decision to end the research reflects a cautious approach and the ANU test data were never submitted to regulatory authorities.

Nevertheless, the research was conducted in anticipation of applying for regulatory approvals. The findings demonstrate the importance of case-by-case evaluation of GMOs and GM products, and the effective role science-based decision-making can play in ensuring the safe introduction of GM foods to the food supply or release of GM crops into the environment.

The research announced by the WA Minister for Agriculture appears to comprise long term animal feeding experiments with GM food. This type of study is not considered to be as useful as other currently accepted methodologies as there are significant problems in interpreting the results from a scientific perspective. For example, effects unrelated to introduced GM proteins are known to arise where the food being tested is not part of the
normal diet of the animals. Such effects can be compounded by the animals being required to consume large amounts of the food because the level of GM protein expression is usually extremely low.

FSANZ and OGTR continue to monitor new scientific information and testing methodologies as they become available. Where appropriate, they will take this into account and modify data requirements for the conduct of safety assessments to ensure the continued safety of the Australian community and environment.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Mr Robert Gerard

Senator SHERRY (Tasmania) (3.02 pm)—I move:

That the Senate take note of the answer given by the Minister for Finance and Administration (Senator Minchin) to a question without notice asked by Senator Sherry today relating to the appointment of Mr Robert Gerard to the Board of the Reserve Bank of Australia.

The Australian Reserve Bank board is the custodian of the Australian monetary system. As such, it has a very important position in the Australian economy. Rightly, the Reserve Bank board has a code of conduct which provides guidelines for the behaviour of individuals who are members of the Reserve Bank board. The code of conduct says:

Members shall observe the highest possible standards of ethical conduct. They will avoid any action, or inaction, which could in any way impair the Bank’s capacity to carry out its duties, or compromise its standing in the community and its reputation for integrity, fairness, honesty and independence.

That is the conduct expected of members of the Reserve Bank board. What do we have at the present time? A member of the Reserve Bank board, a Mr Gerard, appointed by the Treasurer, Mr Costello. Mr Gerard was the CEO, the chief executive officer, of Gerard Industries. Prior to Mr Gerard’s appointment to the Reserve Bank board, a court action was initiated in South Australia by the tax office against Gerard Industries. In its complaint about significant underpayment of tax involving up to $150 million, the tax office found that Mr Gerard, as the chief executive officer of Gerard Industries, personally had made false and misleading statements about tax minimisation schemes that he had knowledge of and authorised the operation of in a number of Caribbean islands. That was known prior to Mr Gerard’s appointment to the Reserve Bank board. It was known by Mr Costello, the Treasurer, prior to the appointing of Mr Gerard to the Reserve Bank board.

With regard to the issue which Mr Costello—an arrogant Mr Costello, I might say—does not address but which he uses to mislead the Australian parliament and the Australian people, Mr Costello claims that he received notification from the tax office that there was no personal question mark over the personal tax affairs of Mr Gerard. That is not the issue. The issue here is the activities found by the ATO about Mr Gerard in his capacity as the chief executive officer of Gerard Industries, which included, as I have said, tax minimisation schemes located in islands in the Caribbean and false and misleading statements about those tax minimisation schemes by Mr Gerard personally. That is what the tax office found prior to Mr Gerard’s appointment to the Reserve Bank board.

Only the arrogant Treasurer of this country, Mr Costello, could possibly claim that a person with that record and that finding by the tax office could be appointed to the Reserve Bank board. Only someone with the arrogance of the Treasurer, Mr Costello, could expect the public to believe that a person such as Mr Gerard, with those findings against him by the tax office, could then be appointed to the Reserve Bank board. The Reserve Bank board rightly has a code of conduct. It has a very important position in
the Australian financial and economic system. Yet, the Treasurer goes ahead and appoints this individual as a member of the Reserve Bank board.

Why did he do it? We posed questions to Senator Minchin today. Our information is that Senator Minchin warned the Treasurer not to appoint him. So why did the arrogant Treasurer go ahead and appoint this person to the Reserve Bank board? Well, he gave over a million dollars in donations to the Liberal Party. Perhaps that is why the Treasurer appointed Mr Gerard to the Reserve Bank board. He gave over a million dollars; that is on the public record. After all, he was a member of the Liberal Party. What this shows is an incredible arrogance by this government, and particularly by the Treasurer, Mr Costello, that a person with this record in public, with findings by the ATO, could be appointed to the Reserve Bank board. (Time expired)

Senator CHAPMAN (South Australia) (3.07 pm)—What we see writ large in this issue that the Labor Party have raised in question time in both this chamber and the other place and also in this debate is the old Labor Party politics of envy. It is nothing more or less than that. The real gripe of the Labor Party is that, unlike some businesspeople, Mr Robert Gerard is prepared to wear his heart on his sleeve when it comes to politics. He is known as a major and generous donor to the Liberal Party and, unlike others, he does not have a two-bob each way bet. He makes his support known and he generously supports the Liberal Party and does not support this ratbag mob on the other side. That is what the Labor Party’s gripe is all about.

What the Labor Party ignore in their attempted character assassination of Mr Gerard is that he is also a very well known and generous benefactor of a lot of other South Australian institutions. He sponsors the Clipsal 500 motor vehicle race, the Adelaide Crows football club, the North Adelaide football club, Prince Alfred College and many other community organisations. He is a very generous and well known benefactor of a wide range of South Australian community institutions. Yet the Labor Party simply want to embark on this character assassination.

Senator Kemp interjecting—
Senator Webber interjecting—

The DEPUTY PRESIDENT—Senator Kemp and Senator Webber, I am trying to listen to Senator Chapman. He is entitled to be heard in silence. Your exchange across the chamber makes it very difficult indeed.

Senator CHAPMAN—The fact is that this issue of tax assessments and the claims of the Australian Taxation Office are nothing more than allegations made by the tax office. That is very clear from what has already been said on this matter. It has been made very clear in the statement issued by Mr Gerard yesterday that these were allegations made by the tax office. As the Treasurer and the Prime Minister have said, taxpayers are entitled to dispute claims made by the Australian tax office and they are entitled to dispute assessments made by the tax office through the court system that we have. That is exactly what Gerard Industries was doing in this situation. The matter was settled out of court; there was no finding against Gerard Industries or Mr Gerard. The allegations that the Labor Party are putting up on this issue have absolutely no substance whatsoever.

That is the clear point with regard to this issue. Mr Gerard is a person of eminent character. He is a very successful South Australian businessman and, indeed, in the Australian context probably a leading Australian businessman. He grew and developed a small family business into a successful Australian based international company with invest-
ments and production facilities both in Australia and overseas and with overseas business partners. He has developed Australian exports of electrical goods and he has played a leading role as a policy maker for Australian industry through the South Australian business chamber and also the Australian Chamber of Commerce and Industry. He has made an enormous contribution not only to the South Australian community but also to the Australian community as a whole.

To suggest, as the Labor Party does, that because of a dispute—and it can be put at nothing more than that—with the Australian Taxation Office over tax matters, a dispute that was resolved satisfactorily, he should not be serving on the Reserve Bank board is simply absolute nonsense. As I said, the real gripe of the Labor Party on this matter is the politics of envy—that here is a man who supports his political principles very strongly and has been actively involved in the Liberal Party as well as being a substantial financial supporter of the party and does not, of course, support the Labor Party in any way, shape or form.

That is the real gripe of the Labor Party on this issue. That is why they are attempting this character assassination of Mr Gerard and it is nothing more or less than that. As I said, Mr Gerard is a generous benefactor not only for the Liberal Party but also for the whole South Australian community, which would be much the poorer if it did not have a person like Mr Robert Gerard with the contribution that he has made to the state not only in business but also as a benefactor for many South Australian institutions. I suggest that the Labor Party forget this issue. It is showing them up purely as a party of envy and there is nothing to sustain the case they are putting on this matter.

Senator HURLEY (South Australia) (3.12 pm)—At least you can say that the Liberal Party is loyal to its friends and rewards them well. Rob Gerard has been a consistent source of funding for the Liberal Party. Rob Gerard supported Dean Brown and the Liberal Party in the lead-up to the December 1993 election. Indeed, Mike Rann said once that Gerard Industries authorised and printed most of the Liberal Party’s campaign literature in the lead-up to the 1993 election, and provided strong support to the Liberal Party. It did not take him long to get his reward for that.

After the December 1993 election, in 1994 his company, Clipsal Industries, was the recipient of a $2.5 million factory built for him in Strathalbyn by the South Australian Housing Trust. That is right: the South Australian Housing Trust built a factory for Clipsal Industries in Strathalbyn. They also provided the water supply and gave payroll tax deductions to that factory. Like many South Australian Liberal government industry assistance schemes, this one did not work and the factory failed. So the provision of jobs out there did not work. Not content with that, the Liberal Party have assisted Rob Gerard in other ways.

The then Premier Dean Brown said, in response to some issues raised on this matter in the South Australian parliament and talking about Mike Rann:

... he wants the people of South Australia to believe that any financial donations to the Liberal Party somehow are rotten and associated with attempts to influence the government to favour the donors.

The Liberal Party certainly has favoured this particular donor in this instance with the appointment to the Reserve Bank of Australia, a position of power and influence and very adequate remuneration. That appointment was a reward for favours done for the Liberal Party. Rob Gerard has been more successful in his political activities than his commercial activities in some respects. Maybe the Lib-
eral Party in South Australia should get back Rob Gerard to print and authorise their material and to involve himself in Liberal Party dealings in South Australia because, certainly since he left the active political sphere, the Liberal Party in South Australia has gone downhill all the way, and it now looks in a very poor position in the lead-up to the next election.

Perhaps it is good for the Labor Party that Rob Gerard stays on the board of the Reserve Bank of Australia. We would not want him back in South Australia running the Liberal Party again. Mike Rann calls the Liberal Party a Rob Gerard franchise. I think it is unfortunate for the Liberal Party that Rob Gerard’s active involvement has ceased, because that was when they were at their most successful. Perhaps they would like him back.

You can understand now why the Liberal Party might be looking at a roll back in the disclosure of political donations. They are embarrassed time and time again by the way that they reward their faithful friends and significant donors in this respect. The donation of $1.1 million from Rob Gerard is very significant and it has had its own very significant reward. The government’s reaction is indicative of the cavalier way that they treat any criticism. They believe that they can do no wrong at this stage. I think they will find, like the Liberal government in South Australia found in 1997 and then in 2002, that the public do not appreciate that kind of arrogant behaviour.

Senator FERGUSON (South Australia) (3.17 pm)—I was very interested to hear what Senator Sherry had to say in his usual prepared statement in taking note of the answer of Senator Minchin. It was very interesting to hear Senator Sherry talk about the arrogance of Mr Costello. I wonder whether he would have said the same thing about the arrogance of former Prime Minister Paul Keating when he claimed to have the Reserve Bank board in his back pocket. Was that arrogance or wasn’t it? All that the Treasurer has done in the past couple of days is explain to the Australian people the exact circumstances at the time of the appointment of Rob Gerard to the Reserve Bank.

Rob Gerard is a fine South Australian. During my time as president of the Liberal Party in South Australia Rob Gerard was the vice president, so I worked very closely with him over a period of time. I know that one thing that Rob Gerard is very proud to do is let everybody know that he is a Liberal Party supporter. Unlike many other businessmen who want to have two bob each way, as Senator Chapman has said, he does not approve of the policies of the Labor Party in any form whatsoever and is prepared to nail his colours to the mast and say: ‘I am going to give to the Liberal Party because they have a philosophy that I believe in. I am going to support them. I proudly say so and I know that it’ll come out in the paper. I know that the money that I give will be publicly disclosed.’ That does not stop Rob Gerard being a wonderful supporter of the Liberal Party in South Australia.

Senator Sherry went on to say, ‘I have information that Senator Minchin warned the Treasurer.’ What rot. Where does Senator Sherry get all of his rumours from? I do not know. I imagine that he makes them up. Here you have a man who, as has been reported in the paper, has given $1 million to the Liberal Party, a party whose philosophy he believes in and that he wants to see in government. For that reason he has been a generous donor.

When they were talking about the $1 million that Mr Gerard has given to the Liberal Party, I did not hear the Labor Party say anything about the $36 million of taxpayers’
money that they rorted from Centenary House for their own benefit—$36 million above what would be the normal rates charged for rent for this place in Canberra. They said nothing about the $36 million that they got from the taxpayers to put into their own coffers and use for their own political ends.

Rob Gerard, as my colleague Senator Chapman has already said, is a fine South Australian who has given money to many worthy causes in South Australia. He does not give it to unworthy causes, which is why he does not give it to the Labor Party. He has given a lot of money to charity and to a lot of wonderful organisations. He is highly respected and has been recognised with Australian honours for his contributions both to the South Australian community and to many organisations within South Australia and within Australia. He is eminently suited, with his experience, to be a member of the Reserve Bank board.

I reiterate what the Treasurer said yesterday on the AM program to Catherine McGrath. He said that he asked whether the commissioner could give him an assurance that the nomination should go forward and the commissioner said that it could. So a lot of the furphies that have been put around in the last couple of days—in particular by Mr Swan in the other place and here again by Senator Sherry today—about the things that actually took place at that time give lie to the facts. Senator Sherry, let me remind you that the Treasurer said yesterday that the Commissioner of Taxation, who is responsible for the taxation system, said to him there were no current disputes. That was the word of the Commissioner of Taxation. The commissioner could have gone on to say, ‘Well, by the way, I have these allegations about Mr Gerard,’ but he did not say that. He did not raise any objections to the appointment of Mr Gerard at all. In conclusion, Mr Gerard himself, in his own written statement, said he had never made any secret of the fact that at the time of his appointment his companies were involved in a dispute with the ATO. There was no trying to hide the facts. He made it quite clear at that time. He is a fine South Australian. (Time expired)

Senator McEwen (South Australia) (3.22 pm)—I also rise in the debate on the motion to take note of the answer by Senator Minchin, the Minister for Finance and Administration and the Minister representing the Treasurer in the Senate, about the appointment of Mr Gerard to a directorship of the Reserve Bank board. The appointment was made when companies associated with Mr Gerard were in the midst of a 14-year long battle with the Australian Taxation Office over tax avoidance to the tune of $150 million; tax avoidance that the Treasurer must have known about and apparently thought was not a problem and should not be a hindrance to the appointment of Mr Gerard to the Reserve Bank board. On this side of the house, we thought we had seen it all in terms of arrogance on the part of this government, but this effort by the Treasurer certainly takes government arrogance to new heights. Senator Minchin’s refusal to answer the question from Senator Sherry about this is illustrative of the arrogance of the government and the way it flies in the face of what is decent and proper in the Australian community and indicative of the low regard it has for the people of Australia.

This appointment to the board of the Reserve Bank of Australia involves the biggest South Australian Liberal mate ever—a Liberal mate who donated to the tune of $1.1 million to the Liberal Party. As Senator Hurley noted, the Premier of South Australia appropriately called the Liberal Party a Rob Gerard franchise. This is an appointment of a man whose company had to pay $150 million to settle a dispute with the tax office
over tax avoidance. He is a Liberal mate who the Treasurer called a fit and proper person to be on the Reserve Bank board. Doesn’t this government have any shame? Doesn’t it have any respect at all for the people of Australia? We know it doesn’t and we have seen it time and time again here in this chamber. If it did, it would not be lumbering the people of Australia with the draconian workplace relations laws that we are currently debating in this place. It would not be lumbering the disabled people and the single supporting parents of Australia with so-called Welfare to Work reforms—reforms which will drive them into poverty. We know it does not respect Australians.

It would be interesting to hear what Mr Gerard thinks about the workplace relations laws currently being debated in this place. Interestingly, Mr Gerard, as we know—and has been said by many senators opposite, especially South Australian senators—is a very successful South Australian businessman. I know he has won gongs for his business acumen and also for his contribution to the South Australian community. The companies that Mr Gerard has been involved in have done very well, despite the fact the government says we need to radically overhaul our industrial relations system because it is holding back entrepreneurial employers like Mr Gerard. But Mr Gerard seems to have done okay. He has done well enough, in fact, in business under the current industrial relations laws—and indeed under Labor industrial relations laws—to contribute more than $1 million to the Liberal Party in South Australia.

I do not dispute that Mr Gerard is a good businessman. We do not dispute that people have the right to seek to legitimately avoid paying tax under current taxation laws. But what we do dispute is whether the government should have appointed Mr Gerard to the Reserve Bank board. That is altogether a different matter, and the government’s attempt to justify the appointment is woeful. Surely, a person appointed to the Reserve Bank board must have the complete trust and confidence of all Australians. This is the bank that sets things like interest rates that affect every Australian every day of their lives. But the Treasurer knew that Mr Gerard was in strife. He was in a big blue with the tax office when he was appointed. The Treasurer stared down Senator Minchin and others who allegedly had some doubts, legitimately, about the appointment of Mr Gerard. The government, through that prime ministerial wannabe, the Treasurer, Mr Costello, has failed to observe the highest standards of corporate governance. (Time expired)

Senator BARTLETT (Queensland) (3.27 pm)—I actually do not know Mr Gerard at all, and prior to this recent controversy I knew very little about him. So I am actually not going to comment on him in any direct way, but I do want to comment on the issue that arises. This whole controversy highlights, as clearly as anything, the very desperate need in Australia to ensure that these sorts of major and key appointments to crucial public positions are done openly and transparently and via a process of merit. Senators would know that the Democrats have moved amendments more than 20 times, I think, to various pieces of legislation over the years trying to ensure that such a process of appointment on merit via an open and transparent process is used for these sorts of important public appointments.

We all know that whilst there is a controversy this time about this particular appointment and the circumstances surrounding it—and there are some legitimate questions to be asked, let me hasten to add, and answered, even better—this of course is not the first controversy, even about appointments to the Reserve Bank board, let alone other ap-
appointments to the High Court, the board of Telstra and a whole range of other key positions in the public arena. It stems back to that core problem that we do not have a transparent process; therefore, the natural response of people when circumstances like this arise is to suspect something dubious is going on.

From the facts of this matter, such as are in the public arena and which we have just heard outlined by other speakers, it is only reasonable for the average person to very seriously query whether or not there is something untoward here. We are talking about something as fundamental as the Reserve Bank. As we all know, and as has been widely commented, the future direction of interest rates was a crucial factor in the last election campaign and something that is very heavily of interest to large numbers of Australians. For people to think that these sorts of positions might be influenced by politically partisan interests is very serious. It degrades the political process. Labor might score points against the Liberals at this moment, but it degrades all of us. It degrades the political process and democracy more broadly. It is no different from the political points that the Liberals sought to score against Labor with some of their appointments when Labor was in government—or which they have sought to do quite recently with particular appointments of various governments at state level in my own state of Queensland and elsewhere.

We have to get a better process. Until we do that, we will continue to have these sorts of controversies, some of them with very legitimate suspicions but that degrade the reputation of the political process. It also puts at risk the very important reputation of bodies like the Reserve Bank. It is about openness, honesty and transparency in these sorts of processes rather than just trying to obscure the facts every time there is a controversy through bluster and half-truths, such as we have seen from the government in relation to this incident. This is a lesson that Senator Abetz in particular has well learnt. We are talking about answers in question time in this debate and I think that Senator Abetz has consistently, for the last month at least, covered up the basics and obscured a fundamental truth about the government’s welfare changes through bluster, half-truths and the deliberate misleading of the public about the fundamental core of what the government is trying to do.

The fundamental fact has been put to Senator Abetz many times over in questions: is it not the case that the government’s legislation on welfare will dramatically reduce the income of over 100,000 sole parents and people with disabilities? That simple fact is something that the minister has dodged every single time, in question after question. He cannot confront it head on because it is a simple, unpalatable truth that the government wish to hide behind a range of bluster, insults and smear of anybody that questions them. That sort of approach of smearing and slagging off anyone who queries the government and criticises their approach is one that unfortunately is becoming much more common. Senator Abetz, unfortunately, as we have seen in his feeble defence in the workplace relations arena—

Senator Kemp—Mr Deputy President, I rise on a point of order. The debate is not about Senator Abetz, who is doing an absolutely outstanding job in question time dealing with the questions which are put to him; it is about another issue. If it were about Senator Abetz, he should have been told so that he could come in and make his own points. It is quite cowardly, actually, to stand up at this time and attack a colleague without warning him that this is about to occur.

The DEPUTY PRESIDENT—There is no point of order. I draw your attention to the
motion before the chair, Senator Bartlett. You have eight seconds left.

Senator BARTLETT—Under standing order 193, I ask for Senator Kemp to withdraw that reflection on my motivation.

The DEPUTY PRESIDENT—Senator Bartlett, your time has expired. The question is—

Senator Bartlett—Mr Deputy President, I stand on a point of order. As I said, Senator Kemp called me cowardly for simply responding and I think—

The DEPUTY PRESIDENT—I did not take it that you were taking a point of order; I took it that you were completing the rest of your contribution to the debate.

Senator Bartlett—On a point of order: Senator Kemp has stated that I am cowardly for responding and I think—

The DEPUTY PRESIDENT—There is no point of order.

Question agreed to.

PERSONAL EXPLANATIONS

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (3.34 pm)—I claim to have been misrepresented and I seek leave to make a short statement.

Leave granted.

Senator BOSWELL—Today in a column in the Daily Telegraph, Anita Quigley calls me ill-informed for saying that the abortion drug RU486 was banned in China. She rang my office to see what abortion drug meetings I had attended, but did not ask to speak to me about the issues. Instead, she contacted a multinational abortion corporation. When I wanted the facts, I went to a doctor who pointed out the web site with the news report that stated that China has:

... banned all pharmaceutical sales of abortion pill RU-486, citing safety concerns about the drug. ‘In order to guarantee patients’ safety and protect their health, it is decided that no matter whether patients have a doctor’s prescription or not, retail drug stores are forbidden to sell mifepristone (RU-486) tablets.

This was according to a notice from China’s state drug administration reported by the international news agencies. The columnist also accused me of not informing myself by not attending the pro-abortion drug briefing in Parliament House. Contrary to what was said in the article, I have informed myself. I have looked up the drug manufacturer’s own warnings in Danco’s new Medication Guide and it states:

About 5-8 out of 100 women taking Mifeprex will need a surgical procedure to end the pregnancy or to stop too much bleeding.

... ... ...

Some women should not take Mifeprex. Do not take it if:

... ... ...

• You cannot return for the next 2 visits.
• You cannot easily get emergency medical help in the 2 weeks after you take Mifeprex.

I have also listened to Professor Renate Klein, a pro-choice professor in women’s studies at Deakin University. She pointed out that RU486 is an unpredictable drug cocktail which starves the foetus of nourishment, requires two or three visits to a doctor with ultrasound facilities and that it is a protracted process because the woman is walking around having an abortion for two to three weeks. In other words, we have come the full circle—back to backyard abortions, where the woman is left to have an abortion alone and at home and, if something goes wrong, as it does in at least five to eight per cent of the cases that need backup surgery, the woman must be able to access emergency care. The columnist accuses me of hiding behind flimsy medical claims—
The DEPUTY PRESIDENT—Senator Boswell, you are now debating the issue. You asked for a point of personal explanation—

Senator BOSWELL—No, I did not.

The DEPUTY PRESIDENT—You are into your fourth page.

Senator BOSWELL—I asked to make a short statement.

The DEPUTY PRESIDENT—You claimed to have been misrepresented.

Senator BOSWELL—Yes, I did, and I asked to make a statement. I am still making the statement.

The DEPUTY PRESIDENT—All right. Continue.

Senator BOSWELL—Thank you. I repeat: if something goes wrong, as it does in at least five to eight per cent of the cases—

The DEPUTY PRESIDENT—Your statement must refer to where you have been misrepresented.

Senator BOSWELL—I am making a statement. I did not seek to make a personal explanation.

Senator Webber—Yes, you did.

The DEPUTY PRESIDENT—Senator Webber, keep out of this.

Senator BOSWELL—No, I did not. I asked to make a statement, and I have about one minute to go. The women must be able to access emergency care. The columnist accused me of hiding behind flimsy medical claims, yet I mostly used the medical advice issued by the FDA, which the columnist herself quotes.

Once a drug is approved in Australia there will be no way to prevent it being readily available on the internet. There will be no way to stop its use by women young and old, city and rural, black and white. If they are uninformed of how to take the medication, if they have no doctor standing by, if they take only the first pill then change their mind and do not take the next or if they have an ectopic pregnancy, they could be in terrible trouble.

This is a drug combo that relies on more than one visit to the doctor and two ultrasounds to be taken properly. Once RU486 is allowed in, a black market in it will take hold, as it has in China. I believe these are the important facts in the debate and I encourage others, like the writer of this column, to check them out.

PETITIONS

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

Workplace Relations

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

We, the undersigned people of goodwill, draw to the attention of the Senate our grave concerns about the direction that the Government is taking our nation with its comprehensive changes to the Workplace and Industrial Relations System. Your petitioners therefore pray that the Senate refer all relevant legislation to a comprehensive Senate Inquiry and Review process that:

• investigates the impact of the changes on and safeguards the rights of the most vulnerable workers and their families: low-income, part-time and casual workers and especially out-workers
• upholds the right of workers to bargain collectively and the right of unions to act as their agents
• accepts and hears submissions from all interested stakeholders in all states and territories
• enquires into the constitutional underpinnings of the proposed legislation
• upholds the principles of fairness and balance for workers and their families in its deliberations and decisions.

by Senator Moore (from 5,055 citizens).
Same-Sex Relationships
This petition is addressed to the Australian Senate. We are seeking changes to the Marriage Act (1961) to alter the definition of marriage from “the union of a man and a woman to the exclusion of all others, voluntarily entered into for life” to include recognition of same sex couples.

by Senator Nettle (from 4,545 citizens).

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

The petition of certain citizens of Australia draws the attention of the Senate to the fact that Australian employees will be worse off as a result of the Howard Government’s proposed changes to the industrial relations system.

The petitioners call upon the Howard Government to adopt a plan to produce a fair industrial relations system based on fairness and the fundamental principles of minimum standards, wages and conditions; safety nets; an independent umpire; the right to associate; and the right to collectively bargain.

The Petitioners therefore ask the Senate to ensure that the Howard Government:

(1) Guarantees that no individual Australia employee will be worse off under proposed changes to the industrial relation system.
(2) Allows the National Minimum Wage to continue to be set annually by the independent umpire, the Australian Industrial Relations Commission.
(3) Guarantees that unfair dismissal law changes will not enable employers to unfairly sack employees.
(4) Ensures that workers have the right to reject individual contracts and bargain for decent wages and conditions collectively.
(5) Keeps in place safety nets for minimum wages and conditions.
(6) Adopt Federal Labor’s principles to produce a fair system based on the fundamental principles on minimum standards, wages and conditions; safety nets; an independent umpire; the right to associate; and the right to collectively bargain.

by Senator Wortley (from 1,258 citizens).

Petitions received.

NOTICES
Presentation

Senator Ludwig to move on the next day of sitting:

That item 2 [Division 1.4E—Sponsorship: trade skills training (incorporating Subdivisions 1.4E.1 to 1.4E.4)] of Schedule 7 of the Migration Amendment Regulations 2005 (No. 9), as contained in Select Legislative Instrument 2005 No. 240 and made under the Migration Act 1958, be disallowed.

Senator Allison to move on the next day of sitting:

That the Senate—

(a) notes that:
   (i) the Sea Shepherd Conservation Society’s ship the Farley Mowat will leave Melbourne in early December 2005 on its way to Antarctica to stop Japanese whalers from slaughtering whales in Australian waters in the Antarctic Whale Sanctuary,
   (ii) Japan plans to double its kill of minke whales and target, for the first time in 2 decades, the endangered humpback whale and fin whale,
   (iii) the Government charged the Farley Mowat $800 when it docked in Melbourne, arguing that it was a commercial vessel, despite the absence of cargo, and
   (iv) the Department of Immigration and Multicultural and Indigenous Affairs threatened to impose a $5 000 fine on one of the crew of the Farley Mowat for not having a visa, despite the fact that she had already been granted one;
(b) questions why the Government has been so antagonistic to the Farley Mowat and why it did not itself send vessels to intervene in this kill;
(c) urges the Government to return the $800 erroneous charge imposed on the Farley Mowat; and

(d) wishes the Farley Mowat a successful mission and thanks it for its efforts on behalf of whales.

Senator Lundy to move on the next day of sitting:

That the Senate condemns the Howard Government’s targeted attack on women in Australian society through its extreme industrial relations changes and the changes contained in the so-called welfare to work proposals.

Senator Sherry to move on the next day of sitting:

That there be laid on the table by the Minister representing the Treasurer, no later than 2.30 pm on Friday, 2 December 2005, all correspondence in relation to the nomination and appointment of Mr Robert Gerard to the Board of the Reserve Bank of Australia, from 1 January 2003 until 1 December 2005, between:

(a) the Department of the Treasury and the Treasurer (Mr Costello);

(b) the Department of the Prime Minister and Cabinet and the Prime Minister (Mr Howard); and

(c) the Attorney-General (Mr Ruddock) and the Treasurer.

Senator Stephens to move on the next day of sitting:

That the Senate—

(a) notes with sincere regret the death of Mr John Patrick Ducker, AO, former member of the New South Wales Legislative Council, on 25 November 2005;

(b) acknowledges the contribution made by Mr Ducker to the Australian Labor Party, the Australian Council of Trade Unions, the New South Wales Labor Council and to the wellbeing of people of Australia through his leadership of the trade union movement;

(c) recognises his contribution to public life through his service to the New South Wales Public Service Board, many community organisations and public companies; and

(d) expresses sincere sympathy to the Ducker family in their loss.

COMMITTEES

Selection of Bills Committee

Report

Senator McGauran (Victoria) (3.40 pm)—I present the 14th report of 2005 of the Selection of Bills Committee.

Ordered that the report be adopted.

Senator McGauran—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 14 OF 2005

(1) The committee met in private session on Tuesday, 29 November 2005 at 4.26 pm.

(2) The committee resolved to recommend—

That the provisions of the Australian Citizenship Bill 2005 and the Australian Citizenship (Transitionals and Consequentials) Bill 2005 be referred immediately to the Legal and Constitutional Legislation Committee for inquiry and report by 27 February 2006 (see appendix for a statement of reasons for referral).

(3) The committee resolved to recommend—

That the following bills not be referred to committees:

• Anglo-Australian Telescope Agreement Amendment Bill 2005

• Tax Laws Amendment (Improvements to Self Assessment) Bill (No. 2) 2005.

The committee recommends accordingly.

(Alan Eggleston)

Acting Chair

30 November 2005

Appendix

Proposal to refer a bill to a committee

CHAMBER
Name of bill(s):
Australian Citizenship Bill 2005

Reasons for referral/principal issues for consideration
To examine the impacts and adequacy of the various provisions of the bill, which intends to replace the Australian Citizenship Act 1948.

Possible submissions or evidence from:
Ethnic community groups and representatives
Muslim community groups and representatives
The Southern Cross Group
Migration Institute of Australia

Committee to which bill is referred:
Legal and Constitutional Legislation Committee

Possible hearing date: February 2006
Possible reporting date(s): 1 March 2006

Whip/Selection of Bills Committee Member

MR NGUYEN TUONG VAN

Senator NETTLE (New South Wales)

(3.41 pm)—I move:

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

Question put.

The Senate divided. [3.45 pm]

(Ayes................ 32
Noes................. 36
Majority........... 4)

AYES

Murray, A.J.M. O’Brien, K.W.K.
Sherry, N.J. Stephens, U.
Stott Despoja, N. Wong, P.

NOES

Abetz, E. Barnett, G.
Brandis, G.H. Campbell, I.G.
Colbeck, R. Eggleston, A.
Ferguson, A.B. Fierravanti-Wells, C.
Heffernan, W. Johnston, D.
Kemp, C.R. Macdonald, I.
Mason, B.J. Minchin, N.H.
Parry, S. Ronaldson, M.
Scullion, N.G. Trood, R.

PAIRS

Carr, K.J. Conroy, S.M.
Hutchins, S.P. Ray, R.F.

* denotes teller

Question negatived.

JAPANESE WHALING PROGRAM

Senator SIEWERT (Western Australia)

(3.49 pm)—by leave—I move the motion as amended:

That the Senate—

(a) notes the imminent arrival of the Japanese whaling fleet in the Southern Ocean and its intention to commence whaling under the greatly expanded JARPA II whaling program;

(b) recognises the leadership the Australian Government has shown to date on this issue;
(c) notes that the radical expansion of the Japanese whaling program gives rise to new opportunities to challenge JARPA II;
(d) urges Australia to commence a claim against Japan under the United Nations Convention on the Law of the Sea challenging the legality of JARPA II, and requesting provisional measures to halt the program while this claim is heard; and
(e) urges Australia to examine actions the Government could take under other treaty measures such as the Antarctic Treaty System.

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

The Senate divided. [3.53 pm]
(The President—Senator the Hon. Paul Calvert)

AYES

Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.  Brown, B.J.
Brown, C.L.  Campbell, G.
Crossin, P.M.  Evans, C.V.
Faulkner, J.P.  Forshaw, M.G.
Hogg, J.J.  Hurley, A.
Kirk, L.  Ludwig, J.W.
Lundy, K.A.  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.
Colbeck, R.  Cooman, 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.
Ronaldson, M.  Santoro, S.
Scullion, N.G.  Troeth, J.M.
Trood, R.  Vanstone, A.E.

PAIRS

Carr, K.J.  Patterson, K.C.
Conroy, S.M.  Hill, R.M.
Hutchins, S.P.  Watson, J.O.W.
Ray, R.F.  Ferris, J.M.

* denotes teller

Question negatived.

SAME-SEX MARRIAGE

Senator NETTLE (New South Wales)

(3.56 pm)—by leave—I move:

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 4545 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.

Question put:
That the motion (Senator Nettle’s) be agreed to.
The Senate divided. [3.58 pm]
(The President—Senator Calvert)
Ayes…………… 7
Noes…………… 51
Majority……… 44

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

NOES
Abetz, E. Adams, J.
Barnett, G. Bishop, T.M.
Boswell, R.L.D. Brown, C.L.
Calvert, P.H. Campbell, G.
Chapman, H.G.P. Coonan, H.L.
Crossin, P.M. Eggleston, A.
Ellison, C.M. Ferguson, A.B.
Fielding, S. Fierravanti-Wells, C.
Fifield, M.P. Forshaw, M.G.
Heffernan, W. 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.
Macdonald, J.A.L. Marshall, G.
McEwen, A. McGauran, J.J.J. *
McLucas, J.E. Minchin, N.H.
Moore, C. Nash, F.
Parry, S. Polley, H.
Ronaldson, M. Santoro, S.
Scullion, N.G. Sherry, N.J.
Stephens, U. Sterle, G.
Trosth, J.M. Vamstone, A.E.
Webber, R. Wong, P.
Wortley, D.

* denotes teller

Question negatived.

SPORTING ACHIEVEMENTS
Senator KEMP (Victoria—Minister for the Arts and Sport) (4.02 pm)—I, and also on behalf of Senator Lundy, move:
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 Committee 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.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Kyoto Protocol
The ACTING DEPUTY PRESIDENT (Senator Moore)—The President has received a letter from Senator Milne proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

“On the eve of the first meeting of the Parties to the Kyoto Protocol in Montreal, the urgent need for the Australian government to ratify the Kyoto Protocol and to commit to more stringent greenhouse gas reduction targets for the period 2013 to 2017.”
I call upon those senators who approve of the proposed discussion to rise in their places.

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

The ACTING DEPUTY PRESIDENT—
I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

Senator MILNE (Tasmania) (4.04 pm)—
As most senators would be aware, this week in Montreal the world is gathering for an historic meeting. In 1997 the Kyoto protocol was signed; in February this year it was ratified and came into effect. So this is the first meeting of the parties to the protocol and in accordance with that there will be another meeting happening at the same time of those countries which have not ratified. One hundred and fifty-six countries will be meeting to talk about the protocol that they have ratified and the only industrialised countries not to be participating in that meeting will be Australia and the United States. It is a disgrace to this nation that we and the United States stand aside from the rest of the industrialised world in failing to ratify the Kyoto protocol.

The Minister for the Environment and Heritage and the government have said time and time again that the reason they have not ratified Kyoto is that it does not go far enough, that its targets are too weak. I want to say at the outset that the reason the targets are so weak is that governments like Australia’s went out of their way to undermine every effort to make those targets more stringent. In fact the former minister, Minister Hill, will recall that he was jubilant about the fact that Australia was able to negotiate for itself an eight per cent increase in the 1990 levels. And it is an affront to the rest of the world to hear the current minister, Minister Campbell, going around talking about Australia being on track to meet its targets and criticising the European Union countries that are falling behind in their capacity to meet their targets, because they all committed to significant reductions, unlike Australia, which committed to an increase.

Recent figures which have just come out show that Australia’s greenhouse gas emissions have increased by 23.3 per cent in the transport and electricity sectors. The only reason that we can say that we are on track for an eight per cent increase is because we can take into account land use, land use changes and forestry, and that is going to be a one-off in terms of being able to count what in fact is protecting some areas of forest and native vegetation. But in our energy and transport sectors we are zooming ahead, increasing greenhouse gas production, as the rest of the world is trying to do something about it.

What we have to get from Montreal is Kyoto Plus. Unless we get the world to commit to a second commitment period we will lose the capacity for investment in the renewable sector and in all of the technologies that we need to address particularly in the transport and energy sectors. At the moment we are not seeing that. Australians will be embarrassed to know that the minister for the environment, who will be representing this country in Montreal, is not taking part in debate on this urgency motion in the Senate today. Apparently he does not feel it is necessary to tell the Australian parliament what he is going to do in Montreal over the next 10 days. At the very least, he should be in here telling us what he is going to commit to when he gets to Montreal. He will be chairing the umbrella group as a side event to the main show. Australia is an observer at this meeting. We will be on the sidelines, over with the recalcitrants. The main thing is that
Australia does not use its role, as it has done previously, to undermine global efforts on the environment.

Every time the minister is challenged on this, he stands up and says two things: Kyoto does not go far enough; he wants to go much further. We have common ground. Everybody in this parliament wants to go much further. We all know that we have to slash greenhouse gas emissions by 60 per cent by 2050 to even stabilise in the long term where we are now. My question to the minister is: why won’t he get behind a second commitment period, ratify Kyoto and agree to much more stringent targets? If he wants stringent targets, good. I am all for stringent targets. Let him go to Montreal and argue for them. But, no, he has said quite clearly that targets and emission level controls are not something that he is interested in pursuing. What a surprise—that is the United States perspective as well! We have President Bush’s efforts in Canada and the deputy sheriff, Australia, coming along behind. In fact, it is very likely that Senator Campbell will behave as the fall guy for the US in a lot of the negotiations. That is what has happened previously. Australia goes for the most extreme position in objecting to what the rest of the world wants and then the US comes in behind and tends to look reasonable. That is the way that they have behaved in recent negotiations. I want to make it clear that I am speaking about the minister for the environment, Senator Ian Campbell, who will represent Australia at these talks.

The other thing the minister says is: ‘Australia is spending a lot of money.’ How much money you spend does not necessarily equate to the outcomes you get. The government is spending $500 million on its low emissions fund, but 90 per cent of that is going to the coal industry. What have we had in the last two days? We have had an announcement from Minister Brendan Nelson that he wants to spend a million dollars looking into nuclear power. He is the minister for mirrors, looking into everything, looking into nuclear. That would be a waste of a million dollars. We do not need to look into nuclear to know that it is not economically viable in this country, it is expensive, it will be a long-term prospect, it generates waste and it is dangerous.

Why is the government so intent on such a no-brainer as spending a million dollars on something when we have cheaper, faster technology that we can implement tomorrow? We could implement renewables tomorrow. Nuclear is one of those things that are out there. Why are they talking up nuclear? It is not for Australian industry or for Australia. It is about legitimising the export of coal and uranium to China and India. That is all that this about. When Senator Ian Campbell gets to Montreal he will no doubt talk with China and India about that export arrangement for coal and uranium as the rest of the world tries to get on with doing something about greenhouse gas emission reduction.

There are certain moments in history that really matter, that profoundly matter. This meeting is one of them. It is not just any global meeting; it is a meeting to address the most significant security threat of our time. Already in Australia increased temperatures, rising sea levels, extreme weather events and more intense flood, fire and drought regimes are occurring. Coastal areas are suffering erosion because of storm surges. We are finding all kinds of localised impacts of climate change. In the Pacific, countries are faced with losing their fresh water supplies because of salt water contaminating those supplies. People are being displaced because of climate change. Areas in the world will be too hot for human habitation. The AMA and the ACF tell us that within the next 50 years we will have thousands of people dying from
diseases such as dengue fever and from heat exhaustion—in ways we have never previ-
ously seen.

In Australia we will suffer extreme effects of climate change. I notice that Senator McGauran is shaking his head. Read the lit-
erature, Senator McGauran. Every single credible scientist now agrees that whilst global warming is a natural process it is be-
ing accelerated by human-induced factors. A massive slab of the Antarctic sea ice has bro-
ken off the Larsen C. The icecaps are melt-
ing and retreating. There is species extinction as never before. At least 30 per cent of the world’s species will be extinct by 2050 be-
cause of climate change. Coral reefs are being bleached. The Southern Ocean is becom-
ing more acidified. The global conveyor belt is slowing down. What is really going on due
to global warming is terrifying. In terms of a security issue, this is the one that Australia is
sitting back and failing to take responsibility for.

Senator Ian Campbell should be telling Australians what he means when says he is
going to achieve a 60 per cent reduction in greenhouse gas emissions by technology transfer. He can do that within the Kyoto
protocol framework. That provides for the clean development mechanism, which allows for technology transfer between developed
devolving countries. If he wants to get involved then he should get involved in that way. His other argument is: ‘You will put a
wet blanket over the Australian economy,’ The only people putting a wet blanket are the
Howard government, including Senator Ian Campbell, by locking Australia out of all the
global trading mechanisms and investments that are going to flow as a result of Kyoto
being ratified.

Trillions of dollars are going into funds in the US that are starting to look for invest-
ment opportunities around the world. The pan-European trading system is up and run-
ning. Carbon trading, emissions trading and the cap-and-trade program are well under-
stood in Europe and occurring right now. Australia is going to be left out in the cold.
What is more ridiculous is that the minute George Bush leaves the White House we will
find the US changing its position on climate change. It has trillions of dollars already in-
volved in the markets. Australia is going to be sitting out there by itself, isolated from
the global community and still regarded as a pariah.

There is no doubt that, whilst the minister claims that his government is the greenest
that Australia has seen in a while, from the rest of the world’s perspective—because
Australia has failed to ratify Kyoto, because Australia has failed to invest in renewable
energies and because it has failed to lift the mandatory renewable energy target—money
is already leaking out of those programs. All the minister would have to do today is lift the
mandatory renewable energy target to 10 per cent to guarantee investment in renewables.
All he has to do today is introduce a manda-
tory energy efficiency target for the country, introduce a national cap on energy genera-
tion and greenhouse gas emissions or de-
velop an emissions trading system.

There are all sorts of opportunities around greenhouse, as well as threats. Australia’s
inaction, its commitment only to voluntary agreements and its sheer obstructionist tac-
tics with its foolish Asia-Pacific Partnership for Clean Development and Climate look
ridiculous on the world stage. That partner-
ship is going to be shown up for the thread-
bare partnership that it is. There is no money involved, there is no text around it, there are
no emissions targets and there are no goals. It is just a voluntary arrangement about the
export of coal and uranium to China and In-
dia. And what a surprise: it was initiated in
the US.
Senator Campbell did not come up with the idea of the Asia-Pacific partnership; he got it from Washington. He has just been to Europe and come back with his nuclear ideas, no doubt—and his voluntary partnerships and his technology transfer ideas. But the point is that the rest of the world has got serious. What a shame; what a disgrace for this country. How do you think Australians feel to know that 156 industrialised countries—all of the industrialised countries of the world, with the exception of Australia and the US—are going to be seriously negotiating and trying to come to an agreement on the post-Kyoto period? We must have a regime for 2013 to 2017 to guarantee the investment in the clean technology we need for the transition to a low-carbon economy. If the government fail at that and if Australia plays a significant role in undermining achieving that then they will be known not only as irresponsible global citizens but as climate criminals.

Senator SANTORO (Queensland) (4.17 pm)—As every member of the Senate would acknowledge, climate change is probably the most significant environmental issue the globe is facing today. The Minister for the Environment and Heritage, Senator Ian Campbell, as Senator Milne has informed the Senate, will be attending the UN climate change conference in Montreal next week to conduct high-level talks with world leaders about our response to this environmental challenge.

As senators know, Senator Campbell this week released a new report showing that Australia remains on track to meet its Kyoto target of reducing greenhouse gas emissions to 108 per cent of their 1990 level by 2010. That achievement cannot be denied. Australia is one of only a handful of industrialised countries that is on track to its target through domestic action alone. While the Australian economy is expected to almost double between 1990 and 2010, its greenhouse gas emissions are expected to grow by only eight per cent. The report shows that actions taken by governments, industry and the community mean Australia will save 85 million tonnes of greenhouse gas emissions a year by 2010. The Australian government is certainly leading the way by investing in a range of measures through its $1.8 billion climate change strategy. In fact, as senators on this side of the Senate boasted today, the Howard government will go down as the most environmentally friendly government in the history of our country.

While we are on track to meet our short-term target, the government recognise the need to cut emissions beyond Kyoto. Our investment in the development of low emissions technologies for the future is part of our strategy to achieve this, and this is what Senator Campbell will be discussing with leaders at the meeting next week. It is important for Australians to understand the reality of this issue: 1.2 billion people live in extreme poverty throughout the world. In developing countries, communities suffer from diseases and restricted access to food, medical treatment, clean water and education because they do not have access to reticulated energy supplies. If we are to ensure future generations of these people are lifted out of their desperate poverty, there must be a growth in energy production, not a reduction.

The challenge is to find ways in which the world’s growing energy needs can be met with zero or minimal greenhouse gas emissions. World science tells us we will need a 50 to 60 per cent reduction in greenhouse gas emissions within the next 50 years or so. The Kyoto protocol actually has emissions increasing by 40 per cent by 2012. Australia’s record is proving there is a way forward that allows emission cuts and economic growth. We are forecast to save 85 million tonnes of greenhouse gas emissions a year by 2010 due
to climate change programs put in place by the Howard government, while the economy is still expected to almost double. This is the equivalent of taking every one of Australia’s 14 million cars, trucks and buses off the road and stopping all rail, air and shipping activity, while still providing major economic growth. To put it in economic terms: based on per dollar GDP expenditure, this represents a fall in greenhouse gas emissions of 43 per cent between 1990 and 2010 while the Australian economy doubles in size.

However, Australia working on its own will achieve little. It produces 1.4 per cent of the world’s greenhouse gas emissions. If we were to close Australia down completely—turning off every school, hospital, car and truck, as the Labor and Greens’ policies would effectively have us do—a rapidly expanding China would replicate the resulting greenhouse gas savings in just 11 months. As a First World nation, Australia has the capacity and the responsibility to develop the technology necessary to provide real solutions to climate change and it is doing so in partnership with private industry and other nations, with the assistance of $1.8 billion in Australian government funding.

The International Energy Agency forecasts that the world’s energy requirements will almost double between now and 2030. This will require 7,800 new power generation facilities around the globe—a massive expansion in power generation and energy consumption. It also tells us that 80 per cent of this energy, even by the year 2030, is likely to be generated using fossil fuels. Of course, the so-called green activists who would prefer to see the economy shrunk as a way to reduce greenhouse gases will find that alarming. If you keep in mind the need to alleviate poverty, to lift living standards, to drive a strong economy and to create the wherewithal to solve climate change, you understand that building these power stations is incredibly important. We were told by the IEA at the Second World Renewable Energy Forum in 2004 that that will cost in the region of $US17 trillion. It is that very investment that will solve the problem.

Radical cuts to emissions are needed at a time when world energy use will continue to rise. This absolutely pivotal joint public policy achievement is required right across the globe. I doubt that there is any challenge the world has faced as important as the need to expand energy use while reducing greenhouse gas emissions. We must not only deploy existing technologies such as wind and solar but embrace others such as the geosequestration—that is, injecting underground—of carbon dioxide. We must consider nuclear energy and continue to invest in research to develop new technologies and encourage private industry participation, as Australia is doing with its $500 million Low Emission Technology Demonstration Fund. Australia and the world must be open to every viable option. The antinuclear, antigeosequestration, antitechnology, anti-economic growth brigade would condemn the world to life in the Dark Ages.

British PM Tony Blair told a G8 meeting earlier this month that the world needs to move beyond Kyoto. Blair, originally a champion of the Kyoto protocol, now says it ‘is not enough’ and:

We need to cut greenhouse emissions radically but Kyoto doesn’t even stabilise them.

That is what a Labour Prime Minister across the world says. When he addressed the G8 he said:

What we need to do is to try to develop the right partnership, and then the right framework, so that we are developing the science and technology that we need, that we are doing this in a way that allows us then to transfer that technology and share it between developed and developing world...
Tony Blair has effectively articulated Australia’s position on climate change. The vision of this Labour leader is refreshing. Unfortunately, the Labor Party in Australia cannot seem to move beyond its two-word environmental policy: sign Kyoto.

However, I should say that the Labor Party has at least belatedly recognised the importance of the new Asia-Pacific Partnership on Clean Development and Climate—a partnership approach that involves 50 per cent of the world’s greenhouse gas emitters—which is vital to solving the problem. Labor’s environment spokesperson, Anthony Albanese, was sent into federal parliament yesterday to strongly endorse the Howard government’s Asia-Pacific Partnership on Clean Development and Climate. Mr Albanese told parliament:

We say that the Asia-Pacific climate pact is good—it is consistent ... The statement of the climate pact says that it is consistent with our obligations under the Kyoto protocol. It also says that it will build on existing bilateral and multilateral initiatives.

The Asia-Pacific partnership involves Australia, the US, China, Japan, South Korea and India, which together are responsible for almost 50 per cent of the world’s greenhouse gas emissions, working together to develop clean energy technology.

Senator McGauran—He didn’t even mention that.

Senator SANTORO—My honourable colleague Senator McGauran is very good to highlight that that was not mentioned by the first speaker from the Greens. When it was announced on 28 July this year Mr Beazley said: ‘It’s nothing. It’s spin.’ Mr Albanese’s comments yesterday display yet another policy splashdown by the Labor Party, which cannot seem to figure out just what its climate change position is. The federal ALP’s endorsement in parliament of the Asia-Pacific partnership follows the resounding approval given to it by shadow minister for primary industries, resources, forestry and tourism, Martin Ferguson, at the Australian Uranium Conference in Perth just last month. This is what he had to say:

This is where the recent Asia-Pacific Partnership on Clean Development and Climate really comes into its own, offering Australia an opportunity for its own economic growth and an opportunity to be part of the solution to the environmental consequences of what is happening in our region—one of the most rapid expansions of economic activity that has occurred in world history.

Labor senators opposite should reflect very carefully on those words by Mr Ferguson and also on the endorsement by their environment spokesman, Mr Albanese, of the regional partnership arrangements that Australia has entered into.

Such ringing endorsement of the Howard government’s climate change partnership by members of the opposition is welcome, but it highlights just how confused the Labor Party and its leader, Kim Beazley, really are. Climate change, we all agree, is a reality and it requires a realistic, pragmatic, world cooperative approach if we are to meet its challenges and also enable economies to grow, as they must for the sake of humanity. We cannot go down the path of having a confused policy position which is constantly changing from that of the Leader of the Labor Party to a different one adopted almost on a daily basis by his shadow ministers. And we cannot have the policy position articulated by the Greens, which I believe is an intellectually deficient position and which clearly fails to recognise the achievements of this government in meeting its Kyoto targets. We cannot have a solution that is based on the Greens’ solution, for that would lead the Australian economy into a decline and it would lead to an economy that shed jobs
rather than created them at record levels, as it has been doing during the last 10 years.

In the end, what Australians want from the Greens is more enlightenment, but enlightenment that is based on serious intellectual argument and serious policy formulation rather than the spurious arguments and impractical policies that we hear from the Greens every day in this place. More importantly, certainly from the point of view of today’s debate, they are arguments which refuse to recognise the reality of what has been achieved and do not give credit where credit is due. (Time expired)

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.28 pm)—Australia remains the highest greenhouse emitter per capita in the developed world and we have a long way to go before we make a difference to greenhouse emissions in this country. I will quickly run through a few suggestions for the government, in case they are listening. What we need is a detailed long-term strategy that includes specific CO₂ emission reduction targets for 2010, 2020 and 2030 and the ultimate goal of reaching greenhouse emission reductions by at least 60 per cent by 2050, and beyond that by probably 80 per cent.

We should set abatement time frames and raise the abatement targets for projects seeking funding through programs such as the Low Emission Technology Development Fund. We should provide incentives to encourage the uptake of current energy efficiencies, such as by adopting the New South Wales BASIX energy efficiency scheme on a national basis. We should commit to ongoing funding for the Photovoltaic Rebate Program. We should examine the costs of increasing MRET to at least five per cent by 2010, 10 per cent by 2020 and 50 per cent by 2050. We should develop more comprehensive policy frameworks that will set stronger market incentives to invest in energy efficiencies and mandate standards for CO₂ abatement, with specific quantifiable and meaningful targets. We need a carbon trading scheme, or to at least provide support for a states carbon trading scheme, and to mandate maximum levels of carbon emissions for Australia according to diminishing benchmarks towards that goal of 60 per cent by 2050. And we need to reconsider—or at least consider for the first time, in the case of the government—the benefits of a carbon tax as a tool to reduce carbon emissions in the industrial sector.

We could also enormously reduce transport emissions by developing car fuel efficiency standards to ensure that by 2015 average fuel consumption of the car fleet, including most four-wheel drives, would be a maximum of four litres per 100 kilometres. We should conserve oil reserves and use natural gas as a transition fuel to other renewable energy fuels. We should manufacture energy efficient hybrid electric cars now. We should use Australia’s massive subsidies to the auto industry to deliver on that. We should be getting ethanol into fuel tanks. We should be using CNG and LPG as alternatives to petrol.

We should also look at the costs of oil depletion and make sure that they are embedded in the price of diesel petrol and aviation fuels. We should utilise other green taxes designed to decouple the growth in oil consumption from the growth of domestic product. We should use green taxes to rebuild and enhance rail infrastructure in urban areas. We should promote and fund the uptake of telecommuting, ecodriving, car pooling and TravelSmart programs in all urban areas. They are just a few suggestions, and the government has taken up none of those. They have all appeared in reports previously made by the Senate. (Time expired)

CHAMBER
Senator LUNDY (Australian Capital Territory) (4.31 pm)—Climate change is the most significant environmental issue facing our planet, and I am pleased to be able to make a contribution on behalf of Labor to this matter of public importance. It is a challenge that requires strong action and leadership from the federal government. Tragically to date, we have had plenty of rhetoric from the government but not enough action. We need a little less conversation and a lot more action. The United Nations Climate Change Conference starting this week in Montreal is a critical point in the fight to avoid dangerous climate change. There will be about 7,000 delegates and observers from 189 countries at the UN meeting to discuss how countries can better work together to address climate change. This will be the first meeting of parties to the Kyoto protocol—a landmark event. This is a time when the world needs to stop, look at the warning signs and say, ‘We will take action,’ and the Australian government needs to move from rhetoric to action. It needs to join, not stand apart from, the international community. It urgently needs to ratify the Kyoto protocol.

Climate change is a real and present danger to Australia. The government’s own Climate change: Risk and vulnerability report, released in July this year, should have been a wake up call for the Howard government and all Australians. It suggested Australia could face the following risks from climate change: an increase in annual national average temperatures of between 0.4 and two degrees by 2030 and up to six degrees by 2070; as much as a 20 per cent reduction in rainfall in southwest Australia and up to a 20 per cent reduction in run-off in the Murray-Darling Basin by 2030; and even more severe cyclones, storms and bushfires. These threats could put some of our significant population and tourist centres, like Cairns, Broome, Darwin and Townsville, at considerable risk. Our major capital cities in southern Australia—Sydney, Melbourne, Adelaide and Perth—and all of the places in between will face increased pressure on access to critical natural resources like water.

Climate change is also a public health issue. Recent research from the Australian Medical Association and the Australian Conservation Foundation suggests that temperature related deaths in Australia could more than double over the next 15 years to 500 deaths per year, flood related deaths and injuries may increase by 240 per cent in some regions, and there will be an increase in the intensity and frequency of food borne and water borne disease. Make no mistake, this will have a wide impact and will particularly hurt low-income earners, the elderly and remote Aboriginal communities. Hurricane Katrina is a window into the future. Scientists tell us climate change will bring more severe hurricanes and cyclones. It was those who are vulnerable in our communities who felt the full force of Hurricane Katrina. It was the poor who were worst affected. That means climate change is a social justice issue as well. It is a health issue, it is an environmental issue, and it will have a profound impact on our economy. And the truth is that, after 10 long years of the Howard government, we are unprepared for the dramatic challenges that climate change will bring.

The Climate change: Risk and vulnerability report urged the government to put a strong focus on preparing for the impact of climate change, with a particular priority given to our majestic World Heritage areas. There is no real evidence that this has occurred. The storm clouds of climate change hang darkly over the future of many of our great natural wonders. The Great Barrier Reef could be one of the first victims of climate change. Rising global water temperatures are increasing the incidence of bleaching events and coral diseases, and this could
result in the complete collapse of the reef within 40 years. The wet tropics are also highly vulnerable to climate change. Half of Northern Queensland’s highland tropical forests could disappear over this century. The report urged the government to develop adaptation plans for our alpine areas and the Murray-Darling Basin, and to prepare for a significant reduction in water supply for our major southern cities, including Melbourne. It urged the government to explicitly factor the threat from climate change into its funding programs. There is no real evidence that this has occurred.

The report urged the government to develop adaptation options for urban systems and emergency services. This would include ensuring that the current study of emergency management priorities and responses being carried out by COAG systematically includes the additional risks posed by climate change. Do you think that has happened? There is absolutely no evidence at all that it has. Is Australia prepared for more intense cyclones? Is Australia ready for a category 5 cyclone hitting Cairns, Townsville or Brisbane? Are we prepared for the full force of climate change? The answer to all of these questions is no. I certainly do not think we are ready. Ten long years of the Howard government has left us unprepared for these major, significant and quite intimidating challenges. The truth is the Howard government is frozen in time while the world warms around it.

According to the Bureau of Meteorology, September 2005 was the warmest September for 125 years and 2005 is on track to be the hottest year since annual records began in 1910. The bureau says climate change is the cause. Given this evidence, this month’s UN report that Australia’s greenhouse pollution rose by more than 23 per cent between 1990 and 2003 is cause for alarm. It is even more alarming that the Howard government is not properly addressing the causes of climate change. For without a stable climate, addressing other environmental threats will be impossible, creating a future where our natural heritage is diminished and our water resources continue to degrade.

As I have said, the urgency of climate change means that it is time for less conversation and a lot more action. A Labor government would take action. It would ratify the Kyoto protocol and it would cut Australia’s greenhouse pollution. It would also hold a national summit on climate change. The New South Wales Premier has written to the Prime Minister requesting such a summit. If the Prime Minister were serious about tackling climate change, he would agree to this request. The New South Wales Premier has proposed four agenda items for the summit: market based policy frameworks; assessing, measuring and targeting future carbon and other greenhouse gas risks; developing international linkages to international carbon trading and climate change initiatives to assist Australian business; and the role of taxation and other incentives in promoting greenhouse gas emissions reduction.

These are all critical issues, but the summit should not be limited to just these points. Other critical issues could include the following: obviously, ratifying the Kyoto protocol and preparing for a post-2012 international framework; establishing an ambitious, mandatory renewable energy target; and preparing for the impact of climate change by developing adaptation strategies for our wonderful and majestic World Heritage areas; addressing water demand and supply and developing disaster mitigation strategies.

Yet, in spite of all the evidence, the Howard government still refuses to join the other 156 countries taking global action by ratifying the Kyoto protocol. The Kyoto protocol is not perfect—no international agreement
ever is—but it is an important first step in cutting global greenhouse pollution. The essence of the Kyoto protocol is the role of the market in driving new technology. The clean development mechanism of the Kyoto protocol is becoming an important source of new finance for projects in developing countries. Because the Howard government will not ratify the Kyoto protocol, Australian companies cannot access the clean development mechanism and thus miss out on huge business opportunities.

The clean development mechanism process creates a win-win-win situation—a win for the environment, a win for private industry and a win for jobs. The first CDM project to be approved and registered was a Dutch funded landfill gas-to-energy project in Brazil. Local benefits include improved water quality, reduced risk of explosion of landfill gas, job creation and 10 per cent of electricity donated for use in schools, hospitals and other public buildings. This illustrates the types of projects that can be undertaken through such investment. Brazil, China and India have the greatest potential for the new mechanism. India has developed more clean energy proposals than any other country and China recently adopted a proactive approach that is expected to make it a key player.

The clean development mechanism is a huge business opportunity for Australian companies. Many of these projects are located in Asia and, with the government’s refusal to ratify the Kyoto protocol, Australian business cannot participate directly in these projects, nor can they hold or trade carbon credits from these projects. It is a significant statement of the despair of the Australian companies that some of them have actually set up offshore subsidiaries. We are sending Australian companies overseas, establishing these subsidiaries so they can participate in this scheme, at a time when we are worried about our current account deficit and the issue of exports. It is pure folly and it has been frustrating to see the Howard government’s continued refusal to ratify the Kyoto protocol. It is hurting our economy.

The Prime Minister said on 11 October that:

Kyoto has always been inadequate for Australia’s interests. It was never right for Australia to sign up to Kyoto.

But Mr Howard was not always negative about the Kyoto protocol. Back in 1997, on 19 December, the Prime Minister said:

We end the year having achieved this ... absolutely stunning diplomatic success at the Kyoto conference. That was an extraordinary achievement, that Kyoto summit—an absolutely extraordinary achievement—and it was against all the odds ... I mean, what we were able to do at Kyoto was, both, make a massive contribution to the world environmental effort to cut greenhouse gas emissions but also to protect Australian jobs ... thanks to the superb negotiating job that [Federal Environment Minister] Robert Hill did at Kyoto, we achieved a win for the environment and a win for Australian jobs.

So, what happened? Why did the Prime Minister seemingly change his mind and not ratify the protocol? It is quite unusual and it shows the hypocrisy of the Howard government’s stance.

The government is now touting the Asia-Pacific climate pact as a replacement for the Kyoto protocol. It is not. The Asia-Pacific climate pact is positive but limited. Technology transfer and working with our Asia-Pacific neighbours is critical to delivering outcomes. But we need to be serious about making real progress and not simply rebadging old commitments. As the vision statement acknowledges, it aims to:

... build on existing bilateral and multilateral initiatives.

In 1992—over a decade ago—all the members of the partnership signed up to almost
identical commitments as part of the United Nations framework convention on climate change. A year after that, Australia, Japan and the US launched the International Energy Agency’s Greenhouse Gas Technology Information Exchange program—GREENTIE. This was followed a few years later by the climate technology initiative. More recently, the Carbon Sequestration Leadership Forum was launched with essentially the same countries and the same commitments. Even the document itself concedes that the partnership is meant to:

... complement, but not replace, the Kyoto protocol.

All sides of politics agree with exchange of research and collaboration over new technology. That is a given. And everyone in this conference has been participating in that process. The question is: how do you drive change? The Asia-Pacific climate pact has no targets, no funding allocation and no market mechanism to drive change. Technology transfer cannot achieve the outcomes we need, as has been proven over and over again.

The government’s complacency means that we are missing out on the significant economic opportunities that come from being world leaders in tackling climate change. Australia would have been well placed to be the Silicon Valley of solar energy 10 years ago. But, after nearly a decade of being starved of government backing, it is hard to imagine Australia being able to recover the position we once held in photovoltaics, as a world leader in solar energy. Without national leadership, opportunities to capitalise on the fast growing climate change friendly industries will be lost to Australian firms. Preparing for a carbon constrained future can certainly be of economic benefit.

The same UN report which indicated our greenhouse emissions were spiralling showed that the UK had reduced its emissions by 13 per cent. Over this period, the British economy has grown by 38 per cent. So, in spite of all of the evidence, Australia and the United States remain the only industrialised nations which have not ratified the Kyoto protocol. The government’s complacency means that we are missing out on the significant economic opportunities that come from being world leaders in tackling climate change. By doing the right thing by the environment by investing in clean energy and supporting market mechanisms to cut greenhouse pollution, we can create innovative new industries and be at the forefront of the sustainability revolution. That is the challenge before the Howard government. It is a challenge that Labor has indicated it is willing, ready and able to take on. (Time expired)

Senator EGGLESTON (Western Australia) (4.46 pm)—We have been through this debate many times in this chamber. We all acknowledge that there is a problem with the greenhouse effect. We know and understand that, and I think we all know that Kyoto will do almost nothing to ameliorate the greenhouse effect. It is estimated that the Kyoto treaty, which Senator Lundy has just extolled the virtues of, will reduce greenhouse emissions by only one per cent—just one per cent. Kyoto is a symbol. It is a symbol to all the people around the world who are concerned about climate change. We should be concerned about it, but the Kyoto treaty adds nothing. It does not really do anything to reduce the problem of greenhouse gas emissions, nor does it make any changes worth having in relation to climate change.

Why is this? The answer is quite simple: the Kyoto treaty does not include among its signatories the major emitters around the world—mostly the Third World countries and countries like China, which has an enormous level of emissions. China is in fact the second largest global emitter and its emis-
Emissions are continuing to grow in line with its rapid economic growth. Behind China in our region is India, which is the fifth largest global emitter. By and large, the South American countries are not signatories. The Russian Federation in Europe is a huge emitter and until recently, when they did a deal with the European Union, the Russians had not signed on to the Kyoto treaty. The Kyoto treaty is a catchcry when it comes to concerns about global warming but it is actually a sham. It is a treaty which really does not achieve anything. For that reason, the Australian government has declined to sign on to it. The Australian government’s position is, quite rightly, that it will not sign on to a treaty to do with global warming until it is a genuinely international treaty and covers all the major emitters in the world because, until that happens, we would just be pretending to do something about greenhouse gas emissions and global warming.

From the Australian point of view, we recognise that global warming is an issue and we have a very fine record in dealing with these problems. We are one of the few nations in the world which, through our own efforts, are meeting our greenhouse emission targets as if we were signatories to the Kyoto treaty. That is in very clear contrast to the countries of Western Europe—especially the Germans, who are so critical of us—who claim to meet their greenhouse targets. When you look closely at the European Union you find that very few European Union countries actually meet their greenhouse targets except through the use of nuclear energy. One has to say that, from an environmental point of view, that is a rather questionable way of achieving those targets.

As I said, despite having no legal obligation to do so, Australia is committed to meeting its Kyoto target of limiting emissions to 108 per cent of the 1990 levels by 2008-12—and we are on track to do so. We are, as I said, one of a handful of nations who are responding to this problem in a meaningful way. For example, Australia was the first country in the world to set up a greenhouse office. We have not signed up to Kyoto but we do recognise the problem and we have set up a greenhouse office. The Howard government has a very fine record in dealing with the issues of renewable energies and low-emissions technology. At the domestic level, the government has directed more than $500 million to low-emissions technology research and a demonstration fund to provide grants of $20 million and upwards to projects which demonstrate the commercial viability of low-emissions technology across the full spectrum of energy sources in this country.

We have provided $30.7 million for the Australian climate change science program to facilitate climate change research. The Cities for Climate Protection program involves 675 local governments around the world and 30 per cent of them are in Australia. Australian local governments have signed on to this project, and in 2004-05 councils reported greenhouse abatement of 1.55 million tonnes, a 22 per cent increase on the previous year. The $14.2 million National Climate Change Adaptation Program has been put in place to assist state and local governments, industry and communities plan for unavoidable climate change.

This government has a range of programs to promote the development of the renewable energy industry. These include the mandatory renewable energy target, the $100 million Renewable Energy Development Initiative, the $20.5 million renewable energy storage program, the $205 million Renewable Remote Power Generation program, the $48 million Renewable Energy Commercialisation Program, the $19 million Renewable Energy Equity Fund and the $40 million
Photovoltaic Rebate Program. Australia has a very fine record in dealing with the issue of greenhouse problems, and we have put a lot of money into developing renewable energy programs.

It is absolute nonsense for people like Senator Lundy and for the Greens senators to continue to criticise the government and to continue to bleat that we should sign a completely meaningless treaty which will do almost nothing to reduce greenhouse emissions around the world. Australia is doing a fine job and we do not need to sign this treaty because we are already on the record as reducing greenhouse emissions in this country.

Senator RONALDSON (Victoria) (4.54 pm)—The reality is that this agreement is a dud. As far as the Greens are concerned, the more things change, the more they stay the same. Rather than the broken record that we have heard over recent years from the Greens in relation to the signing of the Kyoto agreement, it would be nice to hear something constructive from them for a change on what we might actually do. The broken record keeps on going round and round and the lack of any positive contribution remains the same, day in, day out.

I noted with some interest in Senator Lundy’s comments about the Labor Party’s views in relation to these matters. I thought it would be of interest to bring to the attention of the Senate the Asia-Pacific climate pact which we have formed with the US, China, India, Japan and Korea. It was signed in Laos by the foreign minister. It covers about 50 per cent of the world’s population and around 44 per cent of the world’s greenhouse gas emissions globally. When Senator Lundy regaled us with the Labor Party’s concerns in relation to the environment and greenhouse gases, she neglected to tell us that her party is so bereft of any ideas in relation to this that there is a conflict between her leader Mr Beazley and other members of the ALP.

When this was announced on 28 July this year, Mr Beazley, the Leader of the Opposition, said: ‘It’s nothing. It’s spin.’ This is an agreement formed with the US, China, India, Japan and Korea, covering 50 per cent of the world’s population and 44 per cent of the world’s greenhouse gas emissions—and it is ‘spin’. Fortunately, Mr Albanese has obviously woken up to the realities of the situation. Mr Albanese is from the other place. His seat I forget, although I should remember it.

Senator Wong—Grayndler.

Senator RONALDSON—Thank you very much, Senator Wong. To his credit, the member for Grayndler in the other place said on 29 November:

We say that the Asia-Pacific climate pact is good—it is consistent ... The statement of the climate pact says that it is consistent with our obligations under the Kyoto protocol. It also says that it will build on existing bilateral and multilateral initiatives.

I am pleased that Mr Albanese can see what Senator Lundy and Mr Beazley obviously cannot.

We need to put this debate into some sort of perspective. We know that the surface temperature of our planet changes all the time. The well-regarded National Academy of Sciences in the United States has done significant research on this topic. From the 1890s to the 1940s, there was a warming trend. From the 1940s to the 1970s, there was actually a cooling. Then from the 1970s on, there has been significant warming again. In total, across the changing trends there has been a 0.6 degree increase in the last 100 years.

The Greens will never acknowledge that greenhouse occurs naturally. It is likely that man-made pollution is also contributing to
the greenhouse effect. But the reality is that we do not know that for sure. We need to do more work to establish whether that is the reality and, if it is the reality, what the effect on our climate will be into the future. There is not scientific consensus on this. Eighty leading academics and 25 meteorologists from across the world signed the 1997 Leipzig Declaration, underscoring the fact that we are yet to reach a scientific consensus on global warming. The declaration reads in part:

We believe the Kyoto Protocol—to curtail carbon dioxide emissions from only part of the world community—is dangerously simplistic, quite ineffective, and economically destructive to jobs and standards-of-living.... We consider the drastic emission control policies deriving from the Kyoto conference—lacking credible support from the underlying science—to be ill-advised and premature.

There is not consensus in the scientific world about where we are at. But despite that, this government has contributed and is contributing some $1.8 billion towards what we see as potentially quite a serious concern. Senator Santoro referred to, for example, the $30.7 million going to the Australian climate change science program for ongoing climate change research over the next four years.

The world needs greenhouse gas emissions—on the basis of those who believe it is now fundamentally a man-made issue—to come down by roughly 50 per cent this century. Under the Kyoto greenhouse gas emissions agreement, they will rise by 40 per cent. So here is this marvellous agreement being lauded by the Greens which will actually see an increase in greenhouse gas emissions. We know that Australia emits only 1.4 per cent of the world’s greenhouse gases. Anything that is going to work in the future has to engage all major emitters, and that is why we believe the Asia-Pacific pact is an extremely important part of engaging the major emitters. We are not running around supporting an agreement that is not supported by the major emitters around the world but, in a constructive approach, engaging with those who are emitting a large amount of greenhouse gas globally.

Senator BOB BROWN (Tasmania) (5.01 pm)—Just let me reiterate what Senator Milne said at the outset: 170-plus countries have ratified Kyoto, including China and India. The ignorance that comes from the government benches is sensational. It must be appalling to listeners to hear in the speeches that we have just heard from the government benches that that ignorance is replacing what we would expect: informed debate and action and the nous to recognise the business investment that would come out of Australia being among the Kyoto ratifiers. The conference in Montreal is for those countries that have ratified. Decent parts of the international community recognise that we owe it to coming generations to act now and not stand aside but become part of a global move to really tackle this problem. But Australia has stood out because it is deputy sheriff to the Bush administration. Like President Bush, Prime Minister Howard has decided that the oil and coal industries are more important than the interests of our grandchildren.

I congratulate Senator Milne on bringing this extremely critical motion before the Senate. Senator Milne, as Vice-President of the World Conservation Union and a member of the International Union for the Conservation of Nature, will participate in the Montreal debate, taking part in constructive moves by the world to tackle this awesome problem which like a spectre hangs across the future of the whole of humanity and all our fellow species on this planet. Because of the perfidy of the government in signing the protocol but refusing to ratify, Senator Milne will be representing Australia at this conference, while
our so-called minister for the environment, Senator Ian Campbell, will be outside and only able to observe and criticise from the margins.

As the world works out how it is going to deal with gas trading emissions coming out of Kyoto worth $3 trillion and a clean development mechanism with business, including another $3 trillion, Australia will be locked outside. Who will be talking about jobs, business, the environment and the future of this beautiful country—this wonderful sunny country the virtues and potential of which we should be extolling? We have to keep it on this side with the Greens, and our hopes have to go with Senator Milne to Montreal because this government has failed. It is locked outside and has observer status when it should be in the thick of things, representing the 20 million people of this country. (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Kirk)—Order! The time for discussion of the matter of public importance has expired.

COMMITTEES
ASIO, ASIS and DSD Committee
Report

Senator FERGUSON (South Australia) (5.04 pm)—On behalf of the Parliamentary Joint Committee on ASIO, ASIS and DSD, I present the report of the committee entitled ASIO’s questioning and detention powers—review of the operation, effectiveness and implications of division 3 part III in the Australian Security Intelligence Organisation Act 1979. I seek leave to move a motion in relation to the report.

Leave granted.

Senator FERGUSON—I move:

That the Senate take note of the report.

It is with pleasure that I present the review by the Joint Parliamentary Committee on ASIO, ASIS and DSD of the operations, effectiveness and implications of ASIO’s questioning and detention powers. This review is a fulfilment of the requirement in section 29 of the Intelligence Services Act that the committee review the operations of this provision three years after its implementation and prior to the activation of the sunset clause in July 2006. The recommended continuation of the sunset clause and the accompanying committee review is a reflection of the seriousness with which the parliament viewed these powers.

ASIO provided the committee with a substantial and comprehensive classified submission detailing the operations of the powers over a three-year period. The committee is most grateful for this information, which it found immensely important to its understanding of the operations of the act. Under subsection (7) of the act, ASIO requested the removal of some matters from the committee’s report which the committee viewed as important. There were, however, two instances where ASIO insisted on deletions and where the committee did not agree with ASIO’s view that the matters constituted a matter of national security. The committee does, however, recognise that, under the act, ASIO has the right to insist on deletions from the committee’s reports prior to tabling.

Of more substantial importance are the committee’s findings in relation to the operations of division 3 of part III. ASIO has used its questioning powers under warrant 14 times over the period of the review. It has never used its detention powers at all. No request for a warrant was rejected by either the Attorney-General or the issuing authority. All subjects of warrants have had access to legal advisers, although not all subjects have used legal advisers for the whole period of their questioning. No legal representatives were removed on the grounds of disrupting proceedings. All applications for financial
assistance made to the Attorney-General’s Department have been granted.

ASIO has complied with both the act and the protocol in relation to the general conduct of the questioning—that is, it has adhered to the laws and regulations in relation to the periods of questioning, the granting of breaks, the allowing of prayer times and the explanation of the procedures to the subject et cetera. The Inspector-General of Intelligence and Security or someone from his office has attended the first day of all questioning warrants. All questionings have been videotaped and transcribed and all videotapes and transcripts have been provided to the office of the inspector-general. The committee also had an opportunity to view videotapes and transcripts for the first eight warrants, but not the last six. The nature of the questioning was described by the Inspector-General of Intelligence and Security as ‘professional and appropriate’ and ‘the subjects of warrants were treated with humanity and respect for human dignity’, even in the face of ‘abusive and evasive comments’. The prescribed authority described the nature of the questioning as ‘questions merely to get information’ rather than cross-examination.

There have been no complaints made by the subjects of warrants to the Federal Court or the Ombudsman. However, some complaints about the process were made to the inspector-general and the committee. I will outline a couple of those. First, there was the question of the lack of specificity in the warrants—was there sufficient information to guide the prescribed authority in his supervision of the questioning and the lawyer in his advice to his client, and to ensure that the questioning stayed within the purpose for which it was intended? As to the nature and purpose of the questioning, some lawyers claimed that some of the questioning would in normal circumstances draw an objection from a lawyer as being improper. They did not believe that the questioning was directed at the purpose of the legislation—that is, to gather intelligence that is important in relation to a terrorism offence or to prevent planned terrorist attacks. They described much of the questioning as relating to historical circumstances with no connection to any imminent terrorist threat. They claimed that some questioning was not designed to elicit information, as that information was already in ASIO’s possession, but, rather, to create an offence under the questioning warrant.

Another area was the right of lawyers to intervene. In circumstances where questions appeared to be improper, lawyers believed they should have a right to intervene. There were problems associated with the right to use interpreters. Interpreters were refused on some occasions. Where the period of questioning had been extended for those using interpreters, there was a danger that this might inhibit a subject from asking for the use of one, even where that might have been advisable. There were also claims of prejudicial reporting in the media about people subject to questioning warrants whose right of reply was curtailed by the secrecy provisions of the act. These complaints were central to the debate during the inquiry and have informed the committee’s subsequent recommendations.

A number of the committee’s recommendations were supported by the inspector-general and were regarded as reasonable by officials from ASIO and the Attorney-General’s Department during the inquiry. These recommendations include clarification in the drafting of the legislation, particularly between the conditions applying to detention warrants and those applying to questioning only warrants; clarification and codification of the role of legal representatives—the right within the statute to a legal representative for a questioning warrant, the right of the legal
representative to intervene under defined circumstances and the right to confidential communication with their clients under a questioning warrant; an improvement in the capacity of the prescribed authority to supervise the questioning through greater information being provided to him about the purpose of the warrant; and an improvement in both appeals and complaints mechanisms.

The committee has also asked that the secrecy provisions be re-examined, that penalties for breaches be made standard, that the definition of ‘operational information’ for the purposes of the secrecy provisions be narrowed, that greater disclosure be possible on questioning only warrants and that the prescribed authority be given some decision-making power in relation to disclosure under the secrecy provisions.

The committee took a great deal of evidence from the Muslim community on the implications of the legislation for them. They expressed concern that the impact on them was negative and that it had created apprehension and a sense that they had to prove their innocence. Particular concerns were expressed about intolerant and inflammatory remarks aired on talkback radio. The Muslim community believes that all leaders—government ministers and officials, members of parliament, community leaders and journalists—have a responsibility, as far as they can and consistent with freedom of speech, to contain inflammatory remarks within the community.

Finally, the committee acknowledged and accepted the view put to it by almost all witnesses that the powers within division 3 of part III were extraordinary powers that should remain on the statute book only as long as necessary. Therefore, the committee believes that the sunset clause, albeit over a longer time frame, must be reinserted into the legislation when it is re-enacted next year.

I commend the report to the Senate. In doing so I want to dissociate myself from two paragraphs that are included in this report. During the period of the review I was the acting committee chair in the absence of Mr David Jull, who had sick leave for some six months. As such, I was responsible for the draft report that went to our committee for consideration. The committee approved a report which, of course, then goes to the agency for clearance.

ASIO, as I said earlier, has a right to insist on some deletions. I was not available when the final toing-and-froing was done between the department and the committee on the words that were to be included. They insisted that two parts of the report be deleted, and then some paragraphs were inserted which I do not think reflect my views, although they may reflect the views of the committee. I do not believe that they were removed under protest, as it says here, because I do not think we have a right to protest against something that ASIO has a legal obligation and right to do—that is, to make a judgment about matters of national security. I certainly would not attribute words such as ‘a violation of duty’ where the committee has that statutory responsibility. That is in 1.38. In 1.73 there is the deletion of a table. I do not think there is a need for us to highlight in a report the fact that ASIO has requested the deletion of a table. Even though the committee did not feel that it was a matter of national security, it is not for us to decide. Apart from that, I commend the report to the Senate. I would particularly like to thank the secretariat, under the secretary Margaret Swieringa, for their hard work. We have had a very busy year. The work of the secretariat has been outstanding in all of that time. (Time expired)
Senator LUDWIG (Queensland) (5.15 pm)—I will not take up the full time that is available to speak on the report of the Joint Committee on ASIO, ASIS and DSD. Senator Ray is the person who would normally speak now. He has participated in the inquiry into ASIO’s questioning and detention powers. However, Senator Ray is not here. But the report does deserve some mention from the opposition. This is a significant report, dealing with ASIO’s questioning and detention powers. It is the review of the operation, effectiveness and implications of division 3, part III of the Australian Security Intelligence Organisation Act 1979.

Perhaps Senator Ray would not have gone to this section first but, given that he is not here, I can. The section on the operation of the legislation, at 1.1, starts with Senator Ray questioning Mr Richardson, then ASIO chief, for want of a better title. Senator Ray said:

Putting aside the question of the sunset clause, in giving evidence today are you arguing for any increased powers in the existing legislation ...

Mr Richardson said no. Mr McDonald, who is from the executive of the government, said:

With us, the answer is no as well. In fact, the amendments we included in our submission are about clarifying the powers probably in the direction of the rights of the individual.

Senator Ray then said to the director-general:

... you are satisfied that the existing powers equip you to do the job you need to do?

Mr Richardson answered in the affirmative.

To look at what this report provides, it is perhaps instructive to go to the conclusions. The conclusions highlight, I suspect for everyone, the changed environment that we now live in. The conclusions in part state:

6.37 There is no state of emergency in Australia in the strict legal sense of the concept.

6.38 There are, however, for the foreseeable future, threats of possible terrorist attacks in Australia.

6.39 Some people in Australia might be inclined or induced to participate in such activity.

6.40 It is valuable to monitor such people, through ASIO’s various intelligence gathering methods, to seek to prevent such possible actions.

6.41 The questioning regime set up under Division 3 Part III has been useful in this regard. I will not go through all of the conclusions.

I think that it is helpful to outline the excellent work of the committee. I cannot say that I am speaking on behalf of Senator Ray, because he does not know I am doing this, but I am sure he will read my comments at some other time. I think he would want me to thank the committee secretariat, the chair and the acting chair for their valuable input and work to ensure that this was done well. It has certainly been exhaustive.

The other couple of points I want to go to are the recommendations. It is instructive in some regard to look at the recommendations. I could perhaps juxtapose this with the Senate Legal and Constitutional Legislation Committee report on the provisions of the Anti-Terrorism Bill (No. 2) 2005. When you look at that report and this report you see that both are effectively majority reports. In this instance, it is a unanimous report on the ASIO questioning regime. The Legal and Constitutional Legislation Committee tabled a majority report from Labor and the coalition senators.

Three recommendations on the ASIO questioning regime and detention powers really highlight the direction that Labor, Liberal and National senators agree on. At recommendation 19 the committee recommends:

Section 34Y be maintained in Division 3 Part III of the ASIO Act 1979, but be amended to en-
compass a sunset clause to come into effect on 22 November 2011 ...

So it effectively provides for a sunset of these powers. It further says:

Paragraph 29(1)(bb) of the Intelligence Services Act 2001 be amended to require the Parliamentary Joint Committee on Intelligence and Security to review the operations, effectiveness and implications of the powers in Division 3 Part III and report to the Parliament on 22 June 2011.

The Parliamentary Joint Committee on ASIO, ASIS and DSD is seeking an effective safeguard to be placed in the legislation because it is important not only to review but also to have a sunset provision in legislation. That also accords with the direction that the Legal and Constitutional Legislation Committee took on the provisions of the antiterrorism bill. It also came to the conclusion that it is important to have that sunset provision. Strangely, it picked the same period, which is five years, as being a reasonable time in which legislation can run. Also, over a five-year period there might be changed circumstances that would warrant a review of the operation, effectiveness and implications. There should be another look at whether that power is still required, whether the environment has changed or whether other circumstances have come about.

The other area which is also instructive is in recommendation 12 of the report on ASIO questioning and detention—that is, the unanimous report of the Liberals, Labor and The Nationals. The committee recommends:

... an explicit right of access to the State Ombudsman, or other relevant State body, with jurisdiction to receive and investigate complaints about the conduct of State police officers be provided.

In other words, that ensures that there is a right of access to the Ombudsman. It is important to ensure that there is an oversight role. I again juxtapose that with the findings of the Legal and Constitutional Legislation Committee, which, in its recommendations on the antiterrorism bill, sought to ensure that there is Ombudsman oversight.

I am comforted that at least it seems to be the position, if not of Mr Ruddock, of the coalition Liberal and National Party senators in this place, as it is of Labor, that there should be sunset provisions in this type of legislation, that it should be reviewed and that there should be strengthened oversight. The report, I think, strengthens the position that the Senate Legal and Constitutional Legislation Committee sought to make in its recommendations on the provisions of the Anti-Terrorism Bill (No. 2). Further, in order to strengthen safeguards and oversight the Parliamentary Joint Committee on ASIO, ASIS and DSD, at the second dot point of recommendation 10, recommends:

ASIO be required to provide a copy of the statement of facts and grounds on which the warrant was issued to the prescribed authority before questioning commences.

That is one more of those additional factors needed to ensure that there is clarity and certainty. There should be a clear statement of facts about what ASIO is requiring. They should have to provide that copy so that there is no doubt for the person who is being served.

That same thread also seems to run through the Legal and Constitutional Legislation Committee’s examination of the provisions of the antiterrorism bill. The same requirement is suggested in the area of preventative detention and control orders. Moving away from requiring just a summary of grounds, the Legal and Constitutional Legislation Committee report into the antiterrorism bill sought the inclusion of greater transparency so that the respondent could be certain—or at least certain as far as national security implications would allow—of the grounds for the order by having more than
simply a summary of grounds. The committee suggested that they have a statement of facts or reasons so that they could respond to them and provide them to the relevant people helping them to respond.

Recommendation 7 of the Parliamentary Joint Committee on ASIO, ASIS and DSD report recommends that communications between a lawyer and his or her client be recognised as confidential—in other words, that client confidentiality be recognised. Similarly, from the Legal and Constitutional Legislation Committee the same thread comes through where it has sought to ensure that legal professional privilege is provided for in the antiterrorism bill. So there is broad agreement, and it is comforting to see that the Liberal-National coalition have also sought to join in the direction that the Legal and Constitutional Legislation Committee took. It is pleasing to see that they have come to our position, and that is very helpful in making our case. When we see the antiterrorism bill—(Time expired)

Senator BARTLETT (Queensland) (5.25 pm)—I will try to be brief to ensure there is sufficient time for another speaker; I shall not use up all my time. The Democrats have not yet had the opportunity to fully read the report that has been tabled. From an initial scanning of it, I believe the committee has done a reasonably thorough job. Obviously, it has provided quite a few recommendations—19 recommendations—and that demonstrates the importance of ongoing parliamentary scrutiny of these sorts of matters.

But I have to make the point—I have made it many times, and pretty much every time a report from this committee gets tabled—that by law there is no Democrat representative on this committee, and neither is there a Greens or Independent representative on it. I have a repeated concern—which makes me think even more that it should not be the case—that that broad representation of community and parliamentary views is not on the committee. Equally seriously, I would say that there is a case, even though I have not served on the committee, to argue that perhaps it should be larger. It is getting more and more responsibilities and it has only seven people on it

Senator Ferguson—It has nine now.

Senator BARTLETT—There you go—my viewpoint has been presciently anticipated. I think Senator Ray is the only Labor senator currently on the original committee. I do not criticise him for this, but obviously he has been otherwise engaged for some time. The chair of the committee has also been ill for some time. That in itself shows the importance of having a wide range of people. Whilst I am sure that Senator Ferguson is quite capable of carrying the load, having a wider range of people and perspectives on what are clearly very important matters is important. And I do emphasise the importance of having people from parties other than the two major parties on the committee.

I say that particularly because I noted, after the recent public debate we had about the special recall of the Senate and the police raids a few days later, that there was quite a lot of commentary from some sections of the print media suggesting that these sorts of intelligence matters were not ones that parties like the Democrats or Greens should have the right be involved in, because we were not mature and responsible enough and were too prone to make hysterical comments and those sorts of things. Obviously, I found those assessments fairly personally offensive. But more widely they reflect a very dangerous viewpoint, which is that somehow or other these are matters for only certain people or perspectives and that, just because you have a political or philosophical view that is at odds with the government or the
two major parties of the day, you should not be able to participate in the scrutiny of these sorts of issues. That is a dangerous sentiment, quite frankly.

To go to the substance of the report, I want to emphasise the importance of the feedback that Senator Ferguson indicated was received from the Muslim community. I have spoken on this issue a number of times in this chamber. It is obviously a particularly pertinent issue at the moment, given the other legislation that this chamber will be debating shortly to further extend security powers. We need to heed those concerns very genuinely and, I believe, do much more of a concrete nature to try to address them.

The recent Legal and Constitutional Affairs Legislation Committee report did have one recommendation that went specifically to that matter, but on a quick reading I do not see a recommendation around that in this report. It may be that the committee felt that it was outside their immediate terms of reference and they did not make recommendations on it, but I think it is an important area. It is a key part of the broader goal, which we all share, of minimising risk to the community from people who might consciously do it harm. If a section of the community such as the Muslim community feel that the laws are being implemented or are at risk of being administered in a way that unfairly targets innocent members of their community then that will not only be unfair for those innocent people but I think will have a wider, more dangerous and counterproductive impact on the overall goal of the legislation.

I welcome the fact that Senator Ferguson drew attention to that in his tabling comments and I would like to reaffirm the importance of the wider community and politicians in general listening to and hearing that perspective. With that, I might cease my remarks for the moment to enable others to make a brief contribution.

Senator BOB BROWN (Tasmania) (5.31 pm)—I thank the Joint Committee on ASIO, ASIS and DSD for the report. In the couple of minutes available I note that the report is a review of the operation, effectiveness and implications of the relevant parts of the ASIO Act 1979, the amendments made a couple of years ago, and that one page of the 283-page report is devoted to outcomes and usefulness. As Senator Ferguson noted, there are two deletions from the report, under protest, at the request of ASIO that he did not agree with. This raises an extremely serious matter for the parliament. Who is to make the judgment about what ultimately the public may see? Is it to be the elected representatives of the public who employ ASIO or is it ASIO telling the elected representatives of the public what the public can or cannot see? Ultimately, a committee like this, which has an enormous responsibility, has to be the authority.

Senator Ferguson—No.

Senator BOB BROWN—Senator Ferguson says no. I say yes. There is a false view here—which is not shared by the Congress of the United States—that the intelligence agencies ultimately have to make judgments about what the elected representatives of parliament may or may not see. That is our job. That is our responsibility. That is not the bailiwick of the representatives of the secret intelligence agencies. When I see in a report like this that a sentence has been removed under protest at the request of ASIO that says to me that the members of the committee removed that because ASIO was protesting, I do not agree that the outcome there should have been as it was. We get what is effectively a blacked-out part of the report on page 172, which says, ‘A table has been removed at the request of ASIO.’ Really?
There has to be much greater consideration of how we as a parliament take our responsibility to the 20 million people of Australia who put us here. I reiterate: intelligence agencies are here at the direction of this parliament; it is not the other way round. A great deal might be learnt from looking at the practices of the United States Congress, which is much more fearless in defending the public interest against the great danger that intelligence—

Senator Ferguson—You hate the Americans! You hate President Bush!

Senator BOB BROWN—That is different. The member interjects and says that I hate America. That is absolutely untrue. I love the country. I have been there many times. He then says that I do not like President Bush. Well, he is on the money. That is how a democracy should work. There are things about the American democracy which we could learn from. We should have a bill of rights—we do not. We should have the freedom for people to move from one side of parliament to the other instead of voting en bloc, but we do not.

Senator Ferguson—How often do the Greens split?

Senator BOB BROWN—It would be an excellent thing if the rude and out of order interjecting government representative were to understand that the Americans have a much more fearless ability in their representatives to tackle intelligence agencies and to stand up for the wider public interest in a democracy and not to be cowed by them, as appears to be the case in this report. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Scrutiny of Bills Committee
Report

Senator EGGLESTON (Western Australia) (5.35 pm)—On behalf of Senator Mason, I present the 13th and 14th reports of 2005 of the Senate Standing Committee for the Scrutiny of Bills. I also present Scrutiny of Bills Alert Digest No. 14 of 2005, dated 30 November 2005.

Ordered that the reports be printed.

AUDITOR-GENERAL’S REPORTS
Report No. 18 of 2005-06

The ACTING DEPUTY PRESIDENT (Senator Kirk)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Audit report No. 18 of 2005-06: Performance Audit: Customs compliance assurance strategy for international cargo.

Senator LUDWIG (Queensland) (5.36 pm)—by leave—The report examines the Australian Customs Service and its role in protecting the community from prohibited imports. These imports include such things as illegal drugs, child pornography and other offensive material. They can also include guns, knives of certain types that are prohibited and other weapons, counterfeit goods and—when Customs acts in conjunction with AQIS—diseased or otherwise undesirable plants and animals or plant or animal products that should not be allowed into this country.

In addition, Customs also ensures that the correct amount of duty is paid on inbound goods. In order to do this, and to protect the community from illegal products, Customs needs information from the importing industry for each import. This type of information includes but is not limited to: the country the imported goods are coming from, the container number, who they are coming from and going to and when and by what means they are arriving—by boat or air. To get this information, the agency uses the Customs Compliance Assurance Strategy. That is effectively what the ANAO, as set out in its report, has audited. However, this audit does
not cover the period of the Howard government’s botched introduction of the import side of the cargo management re-engineering project. It does cover the export side, however, and there it finds that the troubled system has:

... a number of system defects; incorrect reporting practices; and deficiencies within Customs’ support arrangements.

That is what the Audit Office said before considering the botched introduction of the new import system that slows down trade and, in some instances, sends clearances from the computer age back to the age of pen and paper. Considering the terrible farce of the imports system implementation, it is little wonder that the ANAO included a review of the imports phase as a potential audit topic. Given the scale of the mess, Labor believes that the Auditor-General should do just that.

Leaving that issue aside for the moment, the next one in the audit report is yet another failure of Customs IT. This time, the problem seems to lie with a different computer system, the Examination Data Management System, known as EXAMS. Under this system, the ANAO found examination and inspection data is not properly tracked. The effect of that is enormous. It means, to quote from the report:

... Customs does not analyse or effectively use the data retained in the EXAMS system or regional databases.

There are other problems as well. The ANAO found that the EXAMS system:

... does not record the workgroup requesting the examination and the business rules and procedures do not clearly define how positive finds are to be recorded.

That was the assessment of the real-time compliance activity. In respect of the post transaction compliance activity, the report also stated:

... the audit planning process was often based on officer knowledge, experience and intuition and did not include a formal assessment of risks or the level of confidence in the client’s ability to comply.

This problem also carries over to compliance activities relating to licensed premises, where the ANAO found:

Most warehouses and depots were risk rated although Customs advised that, for some, this rating was more intuitive than analytical.

So we have a situation in which formal assessments are often not undertaken and risk assessment for warehouses and depots is based on intuition. This is another failure of the Howard government on border protection. It means Customs is not collecting intelligence that could be used to build on and improve risk profiles. They seem to be based on intuition. Is it any wonder that the ANAO found:

... there has not been a systematic analysis of the results of compliance activity at the operational and tactical levels to identify risks and emerging trends.

In addition, there is a problem with Customs’ internal audit processes—that is, that they do not have enough resources to do them. The massive cost blow-out of the integrated cargo system has led to cutbacks in auditing and accountability. The intelligence functions in this area are also undermined by what the ANAO report described as the ‘fragmented’ approach by Customs to intelligence, feedback and support. The feedback that compliance assurance teams provided to the risk identification and intelligence branch was described in the report as:

Compliance Assurance teams provide little feedback to RI&I analysts on any of the work they undertake or the compliance activities completed as part of the CCAS.

CCAS is the Customs Compliance Assurance Strategy.
The audit also concluded that Customs is simply not keeping accurate and reliable data for use in evaluations of the effectiveness of the compliance assurance. The report concluded:

... accurate and reliable data is not readily available or being used to evaluate the effectiveness of CCAS compliance activities or as a basis for management decisions.

I will finish with another quote from the report:
The ANAO found that Customs’ ability to target non-compliance is undermined by a lack of systematic analysis of risks and emerging trends. The intelligence support being provided to the CCAS is also reduced by inadequate feedback mechanisms and information sharing. Customs intelligence capacity would be enhanced if compliance activities were evaluated and the results of these activities fed into intelligence assessments.

The Customs Service agrees with every recommendation in this report which, I have to say, is pleasing to hear. Yet until this is rectified our community is at risk, because of the slackness of the Minister for Justice and Customs. The once proud Australian Customs Service is being ruined by the reign of an incompetent minister. Finally, I look forward to the potential follow-up audit to review the system in light of the introduction of the import phase of ICS, the new integrated computer system that was introduced on 12 October. It will be instructive to see. I hope the auditor takes up his own suggestion and does the audit and reviews that side.

Senator BARTLETT (Queensland) (5.44 pm)—Normally Senator Murray, rather than I, focuses on Auditor-General’s reports and, indeed, on Customs issues for the Democrats. But I thought it was important to give recognition to this report at the time of its tabling, because there is a bit of a tendency amongst not all but many of us here, in the general public and in the press gallery to think of Auditor-General’s and Customs matters as being fairly dry and not very important, exciting or significant. But this report, I think, highlights not only why the roles of the Auditor-General and the Audit Office are so important and valuable but why we should all pay a bit more attention to some of these matters.

As Senator Ludwig has just outlined, Audit report No. 18, Customs compliance assurance strategy for international cargo, basically demonstrates that serious inadequacies in the customs arena are leaving Australia at risk. It is fairly ironic that this debate follows the tabling of a report about our ASIO laws and, of course, is in the context of debates we will be having in this chamber quite soon about further very significant changes to the law to increase the powers of police and intelligence officers to manage some of these risks. Customs is about risks a lot wider than just terrorism, but some of those issues overlap, particularly if you are talking about weapons and, I would argue, things like drugs, which can be used to finance other unlawful activities and the purchase of materials that can be used to harm the community.

There are quite genuine and direct links between the failures in the Customs area and a lack of ability on the part of the government to do the concrete things that will improve the protection of the Australian community. One’s mind turns to the reported comments a week or so ago of the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone, when she talked, in the context of aeroplane security, about how a lot of the things that are done in relation to security are done to make people feel safer and they do not actually have any substantive benefit in increasing the level of community safety.

The flip side of that is that the government is falling down in the areas in which there
are unspectacular things that could increase community safety but do not get a lot of attention. We saw this a month or two ago in the quite damning report into this government’s failure, four years after 11 September 2001, to get our airport security up to a decent standard. This is the same thing as we are seeing here with regard to Customs. They are different sorts of issues, but they are areas that clearly link to the safety of the community. They are not going to get headlines, they are not spectacular, they are not going to make people notice and feel safer, like putting plastic knives in aeroplanes might, but they will actually have a direct impact on improving the real safety of the community. What we see, as Senator Ludwig has outlined, is that the government is falling short on the concrete stuff that matters.

We are changing significantly, and facing the likelihood of major reductions in, our personal freedoms and, I would argue, risking the undermining of our democracy, supposedly because of this absolutely fierce and unyielding commitment of the government to protect us at all costs from the risk of terrorism and other things. But, whilst we are doing this, we are falling short in something as fundamental for an island nation as Customs, where we clearly need to be using world’s best practice. It is not even that we are not up to speed with the latest technology: we are falling short in the fundamentals of accurate and reliable data not being readily available or used, the fundamentals of having a fragmented approach to intelligence feedback and the fundamentals of adequate resourcing. Even though the area is Customs and people might think that it is tedious and dull—despite the dynamic shadow spokesperson, Senator Ludwig, trying to make it far more exciting—it is actually a fundamental part of making the community safer.

I urge people throughout the community to look more seriously at these sorts of issues. Whilst I do not deny—let me hasten to add—that security laws, whether we are talking about ASIO or other things, may play a role, and that we need to consider those issues, we also should not forget some of the basic areas like Customs, airport security and others where the government is clearly falling short of the mark. In this report—once again in the usual less than headline-grabbing phraseology but nonetheless fairly clear wording—the Audit Office has come down with what I believe to be a less than positive report on the activities in this area.

As Senator Ludwig said, the Audit Office recommendations have been accepted, and that is a positive. But I know from my experience in the immigration arena that it is one thing for a department to accept all the recommendations of an audit report; it is another thing for them to be implemented in a way that fixes the problem. That failed to happen more than once in the immigration area. I hope it happens in the Customs area.

Senator PAYNE (New South Wales) (5.50 pm)—It is my great pleasure to participate in this discussion of the Auditor-General’s report No. 18 of 2005-06: Customs compliance assurance strategy for international cargo. As senators across the chamber have noted, I have long had an interest in this area. I chair the committee with this responsibility: the Senate Legal and Constitutional Legislation Committee. I think it is important to place a couple of points on the record. The ANAO audit of the Customs compliance assurance strategy for international cargo found:

Customs adopts an appropriate risk management approach and has developed and implemented systems and processes to risk assess and target high-risk consignments and non-compliant behaviour.

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The report further found:
Intervention strategies to address non-compliance are tailored to the nature and extent of the risk involved.

The report, in its substance, also acknowledged the initiatives that Customs is putting in place ‘to strengthen its targeting and risk identification strategies’. It acknowledged the development of ‘improved intelligence and information sharing arrangements’ and the work being done to improve data integrity. I am sure all of us are very pleased to see the initiatives that Customs has taken being acknowledged by the ANAO in this report.

The report went on to make nine recommendations. I understand those recommendations are probably best described as improving the operating and administrative effectiveness of the Customs compliance assurance strategy. Customs have welcomed these recommendations, and I know how seriously as an organisation they take them. They have agreed to implement the nine recommendations and, most tellingly, have already begun action to do just that.

Resourcing has been a key contributor to many of the issues that the auditors have identified. It was a decision of the 2005 budget to fund an additional 60 compliance positions which is now in fact enabling Customs to address these issues in particular.

There are a number of specific issues from the report on which I would like to comment briefly. The first of those concerns any discussion of cargo management re-engineering. It is important to note that the audit itself and the work that the ANAO has done is about the Customs Compliance Assurance Strategy and not CMR—that is, cargo management re-engineering.

In relation to the Cargo Reporting Compliance Strategy, the report separately confirms that some cargo reporters are indeed having difficulty in complying with the more rigorous cargo reporting time frames which were introduced by the government in January this year. So Customs has worked with those reporters to assist in improving their performance as part of its cargo reporting strategy. That, most importantly, is a strategy which involves both education and awareness raising for all the stakeholders. Following what is described as an initial moratorium period, there will be new provisions available as of mid-April next year which will enable Customs to impose penalties on cargo reporters who continue to fail to meet the new reporting requirements. For the benefit of the Senate, I think it is important to note that cargo is never released from Customs’ control until such time as it has been reported and its risk adequately assessed.

In terms of other specific issues from the report, I want to make a brief remark about the success rate of the mass screening of air cargo. The current mass screening effort has detected: quarantine threats, and we all know how important it is for Australia as an island continent to deal most seriously with any threats to quarantine—and if I did not know that already, my colleague Senator Scullion would remind me regularly; prohibited imports, including some drugs; and imports which incurred either duty or GST. Also in relation to the mass screening of air cargo, 100 per cent of general air cargo is subject to electronic profiling, and targets identified are physically examined in all cases. This is a very intensive approach for Customs but a very important one for the safety and security of the customs process.

In terms of post-transaction activity and resourcing for that, the ANAO report has identified that the depletion of compliance resources was primarily due to them being redirected to community protection roles—the report makes that particularly clear, on about page 26—and not due to the result of any issues surrounding cargo management
re-engineering. Any effort to indicate otherwise would be inaccurate. Again, in the initiatives taken in the 2005-06 budget, the government has addressed that issue by providing the funding to which I referred earlier for the additional 60 compliance personnel whose role is to address these issues. That is also acknowledged in the audit report.

I commenced my brief remarks this evening by talking about the positives that the ANAO audit found in relation to the Customs Compliance Assurance Strategy. I think its identification of Customs having an appropriate risk management approach and having implemented systems and processes which risk assess and target those high-risk consignments and non-compliant behaviour is a very important part of their activity, which we note regularly in the Senate Legal and Constitutional Legislation Committee estimates environment in particular. Regarding the determination of those intervention strategies to address noncompliance, which are tailored to the nature and extent of the risk involved—and that is an intensive and difficult process that Customs have pursued—the report has acknowledged a number of the other initiatives which Customs have put in place. In the latter part of my remarks concerning the specific issues from the report, I have referred to those.

Customs have strengthened their targeting and risk identification strategies. They have worked hard on the development of improved intelligence and information-sharing arrangements, and the work that is being done to improve data integrity will support and enhance the operation of all of their systems. As I said, nine recommendations were made. Customs have agreed to implement all of those and have, indeed, begun action to do so. I think that is a mark of how seriously they take the ANAO report on the audit of the Customs Compliance Assurance Strategy.

I thank the Senate for the opportunity and seek leave to continue my remarks.

Leave granted; debate adjourned.

DOCUMENTS

Responses to Senate Resolutions

The ACTING DEPUTY PRESIDENT (Senator Kirk)—I present correspondence from the Chairman of the Australian Competition and Consumer Commission, Mr Samuel, responding to the resolutions of the Senate of 27 June and 12 November 2002 concerning tobacco.

Senator BARTLETT (Queensland) (5.57 pm)—by leave—I move:

That the Senate take note of the document.

I realise people want to get on with legislative debates, so I will keep my remarks short. Firstly, given this correspondence is the result of an order of this Senate, it is appropriate to take note of it, particularly given that the orders were from June and November of 2002, so it has taken a while to get here. Obviously, it is the sort of activity that takes a bit of time, so I am not being critical, but, given the length of time involved in this investigation, it has been comprehensive and therefore, again, I think it is appropriate to take note of it.

The original order for the production of this correspondence relating to tobacco was moved on behalf of the Australian Democrats by Senator Lyn Allison. As many senators would know, tobacco and its health consequences, its marketing and other related issues, are issues that not just Senator Allison but also many others from the Democrats have put a lot of energy into and given a lot of priority to. Indeed, one of the very few private senator’s bills that have ever been passed by this parliament since Federation—in over 100 years I think the total number is in single figures—was introduced by a Democrat senator, Senator Janet Powell, and...
was on tobacco advertising. It was a significant landmark in bringing in much more significant restrictions on tobacco advertising. I believe the time is right to go a bit further with regard to that, but for its time—I think it was in about 1991 or 1992—it was a very significant advance.

Senator Allison would be more across the details regarding this than I am, but the investigation of the Australian Competition and Consumer Commission was important in trying to ensure that the way that certain tobacco products are marketed and portrayed is not misleading or likely to have adverse health consequences. Obviously, any sort of marketing of tobacco products is going to have adverse health consequences, because tobacco is one of those products that is unequivocally bad, not only for the people who consume it but for anybody who is regularly exposed to it in the form of passive smoking. But it is nonetheless particularly important that we at least do all we can to minimise misleading portrayals of tobacco products. That was, and indeed remains, a matter of concern to the Democrats, including Senator Allison.

I will not go into the detail of the correspondence and all of the activities of the ACCC regarding this. Suffice to say that I think it is quite clear that the Democrats’ concerns were vindicated and that some aspects of those concerns remain. I do believe it is also a good example of the role that the Senate and the parliament can play in trying to assist bodies such as the ACCC in their important jobs of overseeing the activities of the corporate sector in particular and, indeed, all activities that impact on Australian consumers. It can be of significant assistance to the commission in what can be highly fraught, politicised and contentious areas to have the weight of a parliamentary request behind it rather than being seen to act off its own bat, because it gives the commission extra weight and clout in the area that it is investigating.

Despite the government having, with its new-found majority in the Senate, a perfect record since 1 July of opposing every single motion before this Senate for any sort of order for the production of documents, I hope that the government at least acknowledges the benefit of orders such as this that were passed by the Senate back in 2002. It has been clearly shown to have been a valuable exercise—and let us not forget when we are talking about issues like this that we are not just talking about making ourselves feel better about slightly better behaviour that improves things for consumers; we are actually talking about saving people’s lives here. The more we can reduce the number of people who are hooked on tobacco or the more we can at least ensure that people are fully informed about any interaction they have with tobacco products, the more chance we have of saving lives and, of course, reducing the multibillion dollar cost that the wider community and the taxpayer have to pay because of the continued operations of the tobacco industry.

Question agreed to.

ANTI-TERRORISM BILL (No. 2) 2005
First Reading
Bill received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.04 pm)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading
Senator IAN CAMPBELL (Western Australia—Minister for the Environment and Heritage) (6.04 pm)—I move:
That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

Earlier this month this Senate passed amendments to clarify the terrorist act offences in Part 5.3 of the Criminal Code.

The Government has said publicly that it would like all elements of the Anti-Terrorism legislation package to become law before Christmas.

This second Bill contains the remaining provisions to ensure that we have the toughest laws possible to prosecute those responsible should a terrorist attack occur.

Second and of equal importance the bill ensures we are in the strongest position possible, to prevent new and emerging threats; to stop terrorists carrying out their intended acts.

This bill has been the subject of extensive consultation.

This has included a reference to the Senate Legal and Constitutional Legislation Committee, which reported on the bill earlier this week.

As the Attorney indicated last night, the Government is giving close consideration to the recommendation of the Committee and the need for appropriate amendments.

The Prime Minister first announced the proposals to strengthen Australia’s counter-terrorism laws on 8 September in advance of a special COAG meeting.

The following day senior officials from the Commonwealth met with their State and Territory counterparts to discuss the proposals.

The special COAG meeting of 27 September provided an opportunity for the Prime Minister to discuss the proposals with Premiers and Chief Ministers who agreed that there was a clear case for laws to be strengthened.

The COAG agreement was followed by extensive consultation with the States and Territories at officer level as well as directly between the Prime Minister and Premiers.

This consultation process of almost 2 months has been very constructive and has yielded the positive result of an agreed position on the text of the bill introduced today.

Control Orders and Preventative Detention

Much of the discussion has focussed on the control orders and preventative detention regimes and their extensive safeguards.

Firstly, in considering whether to apply for or issue a control order the personal circumstances of an individual will need to be balanced against the threat to the community.

This does not mean that personal circumstances will outweigh the assessment of the threat, but it is recognised that both issues need to be taken into account.

Under the Control Order regime an “interim” control order is made initially. The person the subject of the order may attend the Court and make representations when the Court decides to confirm, void or revoke the order.

The control order does not come into effect until the person is notified.

The person can apply for the order to be revoked, varied or declared void as soon as the person is notified that an order has been confirmed.

The person and their lawyer may have a copy of the grounds for making or varying the order.

Under the preventative detention regime the order, as well as the treatment of the person detained, would be subject to judicial review.

There is also built in merits review including when the police seek a continued preventative detention order.

At that time the person detained or their legal representative can provide the police with additional information concerning the preventative detention order.

The person detained may contact a lawyer or a family member and employer.

Each year, the Attorney-General would report to Parliament on the operation of preventative detention orders.

The regime will not apply to people under 16 and special rules will apply for people between the
ages of 16 and 18 and people incapable of managing their own affairs.

**Advocating terrorism and sedition**
The bill also addresses those in our community who urge terrorist acts by expanding upon the Australian Government’s ability to proscribe terrorist organisations that advocate terrorism and also updates the sedition offence.

There has also been much discussion about the breadth and appropriateness of these provisions.

The updated sedition offence will address problems with those who urge violence directly against other groups within our community.

The sedition amendments modernise the language of the provisions—they are not a wholesale revision of the sedition offence.

However, given the considerable interest in the provisions, I would like to assure the Parliament that a departmental review of the sedition offences will be conducted.

The bill also bolsters existing offences dealing with funding terrorist organisations and financing individual terrorists.

New measures will facilitate the tracking of terrorist funds and also make it harder for terrorists to transfer funds across international borders.

**Law Enforcement and ASIO powers**
The bill extends the powers of police to stop question and search to all Commonwealth places and prescribed security zones to safeguard against terrorism.

In addition, the bill provides AFP with a new notice to produce regime to ensure compliance with lawful requests for certain types of information.

Finally the bill strengthens the regime relating to ASIO’s powers, including enhancing various aspects of ASIO’s special powers warrant regime, access to aircraft and vessel information, the offence for providing false or misleading information under an ASIO questioning warrant.

The bill also amends relevant customs legislation to broaden customs powers for security and intelligence purposes.

These measures complement others taken by the Government to ensure that agencies are appropriately equipped to protect the Australian community.

I commend the bill to the Senate.

Debate (on motion by Senator Ian Campbell) adjourned.

Ordered that the resumption of the debate on this bill be an order of the day for a later hour.

**WORKPLACE RELATIONS AMENDMENT (WORK CHOICES) BILL 2005**

Second Reading

Debate resumed.

Senator LUDWIG (Queensland) (6.05 pm)—I continue from where I left off on the Workplace Relations Amendment (Work Choices) Bill 2005, that the thrust of this reform is simple—to leave workers with little or no minimum standard or safety net. Without even looking at the unfair dismissal changes, the reforms will fundamentally undermine the rights of all workers in Australia. Ordinary workers know this, community groups know this and church groups across Australia know this. The Howard government seems to be deaf. Labor has and always will fight for the rights of workers and ordinary Australians. It is the basis on which this party was formed more than 100 years ago, and Labor will not give up the fight simply because this extreme, power mad government plans to force its 1970s ideology onto a booming 21st century economy. Labor has always fought for the rights of Australians and will continue to do so.

The government may have the numbers in the Senate, but a majority is nothing compared to the will of Australian people. The Australian public is saying, ‘We won’t stand for this.’ The government should listen to that. The people are also saying: ‘We won’t stand to see our family time taken from us. We won’t work for little, and we will not
give up our rights that have been fought for for the last 100 years. This is not the end of the debate today. The government has taken to quoting comments from every trade unionist as though they were gospel Labor position. What goes around comes around, and the government should get its calculator ready, because every time a worker is dealt with unfairly by an employer under this system Labor will be more than pleased to tally them up and lay them directly at the government’s feet for the Liberals and The Nationals to look at. But whatever abuse of workers’ rights this extreme government puts into practice, the voice of the Australian people will ring loud and clear at the next election. Mr Howard is ignoring the voice right now, but let us see what happens in 2007. His extreme ideology and his judgment and dismissal of Australian people’s rights will cost him his government.

Now, after 9 years of the Howard Government, the veil has finally slipped. Now the unadulterated abuses of the trust the Australian people placed in this Government have begun. And in doing so, now begins of the end for the Howard Government.

The Impacts of this Bill:
The reality of this bill will be found around the kitchen tables, in the backyards and on the patios of Australia. This bill will shatter the corner stones of household budgets and quality time in ordinary family life.

We all know that Australian families are struggling to balance time with the kids and their partners as well as making ends meet at the end of the week. It is no surprise that the average household spends $126 dollars for every $100 they earn just to try and make do.

The current industrial relations system has allowed them to afford childcare, school fees, caring for ageing parents and the occasional day out. The day to day reality of these issues make a mockery of the Prime Minister’s claim that real wages only increased by 1.4 per cent during Labor’s last term in office.

That’s because in tackling the inflationary wage price spiral, the Hawke-Keating Government kept faith with Australian families with a 40 per cent real increase in the social wage.

I can remember the struggles of the 1980s quite well, as I was a young union official working with workers in the transport industry. I can remember the pain of the Accord, but also the security that came with it, the knowledge that if you fell sick or were out of work, that your kids and family would be taken care of.

But now that security has gone. We’ve been told that it’s ‘user-pays’ from now on, and it’s not the place of Government to secure a fair wage to support a worker and their family, who now ought to make their own way in the world.

So, in so many respects, this legislation is the final chapter, the final nail in the coffin so to
speak, of that great social compact the Hawke-Keating Government established during its time in office.

**What workers will lose:**

There are two levels of attacks against workers’ pay and conditions contained in this bill.

At one level, there will be the loss of conditions on the shop floor, occasioned from upsetting the balance between the needs of employees and employers.

At a much wider level, there will be a slashing of wages economy wide, because the Government is kicking out the award safety net out from underneath many workers and is radically altering the way in which the minimum wage is calculated.

I’ll discuss each of these impacts in turn.

This bill will seek to slash the number of allowable matters under a Federal Award to just five matters:

- Ordinary rates of pay
- Hours of work
- Annual leave
- Sick Leave and
- Parental Leave

For a number of years the Government has been out to cut the number of allowable matters in an award—originally down from 20 to 13 and now from 5.

Allowable matters are important because they regulate a minimum standard of overtime amounts, training entitlements, public holidays, termination, types of employment and the like.

They provide certainty for employees, knowing that if they have to work late for instance, they will receive a fair reward for doing so.

Now imagine you are “Billy”—the worker who figured so prominently in the Government’s $55 million dollar dud of Liberal Party advertising.

Billy’s agreement removes many of the twenty provisions of current awards in just one sentence. It says that overtime, leave, public holidays and the like are all encompassed in the ordinary hours and salary of work. Full stop. No ambiguity.

That means if Billy is told to work 10 hour days, 7 days a week for six months and then only come in a couple of hours a week for the rest of the year, then it’s bad luck to Billy.

It’s bad luck to Billy if he is currently paying off his mortgage on overtime and the new agreement strikes out overtime. Billy losing his house is the price of the new flexibility.

It’s bad luck to Billy that he gets the sack for ‘operational reasons’. He won’t have unfair dismissal protections anymore, and it’s bad luck to Billy that he has to spend his own time and money keeping up with training because an employer is not obliged to provide this anymore.

**The Working Poor:**

When I was chair of the Senate Community Affairs inquiry into poverty in Australia, I was struck by the evidence that Australia is increasingly being split down the middle between the haves and the have-nots.

This was evidenced in the rise of the working poor in Australia—something that has never before been witnessed in the 100 years of our Federation.

There are now over 2.4 million Australians living in poverty despite at least one person in the household in which they live having a job. Two key trends have been driving this— the growth of casualisation on one hand and the rise in unpaid overtime on the other.

Casualisation will only get worse under this legislation. Australia has the second highest rate of casualisation in the OECD, second only behind Spain on 27 per cent. I would suggest to any right thinking person that over 1 in 4 workers being casual is as about as flexible as you want.

Even so the Government’s claims that the workforce is not sufficiently flexible evaporates in an instant in the face of that data.

But what we will now have is a situation where an employer can call people in for 2 and 3 hours of work, not paying them penalty rates, and then telling them to go home. They could well lose more money in childcare and petrol costs in getting to the job.

If they refuse the work, then they can get the sack, no questions asked.

It’s no secret that cutting penalty rates and hours of work is only going to increase casualisation,
which the Community Affairs Committee noted was the main reason for the growth in the working poor.

The second surprising issue was the massive growth in the amount of unpaid overtime worked by employees. Over one third of workers reported recently working unpaid overtime, and that that unpaid overtime was often worked on a regular basis.

So not only does this turn the balance between work and family on its head, but it’s clear that many employers are taking advantage of the job insecurity that many workers now face. By striking out overtime, the Government will only further this trend.

This also then calls into question how this legislation is going to create jobs at the level of the micro-economy. Surely employers will now just be able to direct workers to continue on after their shift has finished, rather than actually hiring casuals or more staff. The logic of the Government’s approach simply does not add up.

**AWA’s and the No-Disadvantage Test:**

A related trend has been the insidious growth of AWA’s in sectors where employees are traditionally vulnerable—often in low skill service industries.

Now a common law contract might be appropriate for a highly skilled professional, but the experience of AWA’s in the hospitality and service sector shows they are just a tool to drive down wages and conditions.

A joint study by 151 Academics noted that with successive AWA’s:

‘in the first and second periods, penalty rates were abolished all together in 54 per cent and 44 per cent of cases respectively, and overtime rates were abolished in 40 and 44 per cent of cases’

The Democrats’ thirty pieces of silver was the ‘no disadvantage test’, which held that no AWA could contain terms which on total balance were less that were what were protected by the award.

No such guarantees exist for AWA’s under the new legislation. Naturally, there won’t be much left in awards for AWA’s to be measured against, but that no disadvantage test is going, because it is allegedly ‘too complex for business’—surely doing a few sums can’t be that hard!

This will be the real evil behind the legislation, as ordinary workers, especially vulnerable casuals and those with low skills, are shunted into AWA’s once their collective agreement’s expire, they will see a real loss in their take home pay—all in the name of flexibility.

**Minimum Wage Setting:**

There is a second, wider set of attacks that this bill has on the wages and conditions of Australian workers.

Those attacks are contained in the provisions governing the Orwellian Fair Pay Commission and the method of setting the minimum wage.

John Howard has been parroting the line that we are to trust him on his record.

But the record is that in 4 of the last 8 Government submissions to the national minimum wage case, the Government argued for an increase below the rate of inflation—a net decrease in real wages.

Moreover, the difference between the Government’s submission and the fair level as determined by the AIRC was over $50 per week or a difference of $2600 per year.

So it’s quite clear that John Howard really says one thing and does another.

The Government won’t bear the political odium that will come from its desire to drive down wages and the cost of labour—that’s why it has passed the buck to the Fair Pay Commission.

That Commission will turn the tradition of centralised wage setting in Australia on its head. Since the Harvester judgement, wages have been set on the basis of a fair remuneration for employment, not the employer’s capacity to pay.

Now the Fair Pay Commission will be told to address employability as an issue in determining wages—code for what employers consider affordable. To understand the reasons for this you have to delve into the John Howard’s tortured ideological heritage.

John Howard recently described low wages as an ‘article of faith’ for him and his Government. I say low wages because those opposite are pent up with a belief that low wages are connected in an
exact bouncing-ball arrangement with high employment. This may have been true in the factories of a Dickensian novel, but it is certainly not true in the contemporary post-industrial Australian economy. There are a number of factors that govern levels of employment, especially demand but also the competitiveness of Australian industry with imports.

The fact is that in many industries, lowering the cost of labour will not be meet with an increase in employment, as the effect of those reductions in labour costs would be felt in an economy wide loss of demand, but also because of the nature of production it is unlikely that the marginal return on further employment would be sufficient to justify more staff.

This is especially the case in industries such as the transport industry, where profit margins are generally already at their most advantageous point for the employer. In the event that the cost of labour is lowered—as this bill attempts—it would encourage a race to the bottom between various competitors for the pool of semi-skilled labour.

Some time ago the Beyond the midnight oil report noted the relationship between low wages and low levels of safety in that industry. Strong collective wage determination and bargaining processes create a level playing field across the industry, so as to not allow one firm to under-cut their competitors via attacking the decency of their employees' wages.

It is these most vulnerable workers who need the protection of collective agreements. Their families cannot afford a race to the bottom, as in many cases they are already there, already struggling to make ends meet.

Conclusion:

I indicated earlier that this bill is the end of the chapter for the great social reforms of the Hawke-Keating Governments. In my time here, I have witnessed the slow ebbing away of the great foundations of the Australian social democratic compact.

Many of my colleagues have used the term "extreme" to describe this bill. I do not think extreme fully encapsulates the indecency of this legislation, as to label something extreme implies it never the less has continuity with what went before it.

There is no continuity between this bill and the past 100 years of wage determination in this country. That system survived oil shocks, two world wars, post war reconstruction and provided the foundations for the strong economy we have today.

I think age is a testament to its strength, not a visage of its weakness. But what is weak are the limp excuses the Government has proffered to sate its ideological fetish.

It says we need to lock in higher productivity, yet the changes it has introduced since 1996 have been responsible for a 0.9 per cent decrease in average annual productivity. That’s a loss of almost three complete years of productivity growth—we are three years behind.

If anything its outdated, it is the Government’s world view. It idolises a labour market without guarantees, with the balance all in the employers’ favour, and a race to the bottom with India and China.

It was these very circumstances—and the associated discrediting of that world view—which led to the foundation of the first Commonwealth Arbitration and Conciliation Courts.

Having lost the battle of ideas, John Howard now seeks to change the facts and wants take Australia back to the idolised adolescent dreaming of his early political youth.

Someone should remind that man of the massive difference between his early earnings as a solicitor and those earnings of the average men and women, who provided for a family and gave people like myself the best start in life they could.

I have no doubt that posterity will vindicate my party’s position in this debate.

I have every confidence in Manning Clark’s great description of Australian politics as a struggle between the ‘straighteners’ and ‘enlargeners’ of life will haunt this Government.

I know we must and will win this fight. It is a fight for the decency for ordinary folk, people
whose sole ambition is to give their children a better start than they had.

And finally I know only my Party will give them the industrial rights and time with the family that they need to realise that hope.

I wish to conclude my remarks on this bill by thanking the Senate and my colleagues for the indulgence shown to me this last few weeks as I recover from major surgery.

I would particularly like to record my appreciation to the medical and general staff at Nepean Private Hospital, Banksia Ward and Critical Care Unit/HDU for the wonderfully dedicated and professional manner they cared for me before, during and after surgery.

Finally I would like to express my sincerest gratitude to Associate Professor John Cartmill; his professionalism and humanity lead me through the labyrinth.

Senator SHERRY (Tasmania) (6.07 pm)—The Senate is currently considering the so-called Workplace Relations Amendment (Work Choices) Bill 2005. I will firstly make some general comments about this Liberal-National government’s approach to the legislation and then go into some detail about the alleged economic benefits claimed to flow from this particular bill. The bill goes to a radical shake-up of our current industrial relations system. The current system regulates and protects wages and conditions for all Australian workers. In its essential elements, the bill goes to a new so-called Fair Pay Commission to set the minimum wage, with no explanation about what is inadequate about the current setting of the minimum wage.

Secondly is the removal of the no disadvantage test that prevents an employer from packaging wages and conditions—such as public holidays, penalty rates, shift payments and others—below their equivalent award value or level. The removal of that no disadvantage test has significant implications for the overall total level of remuneration of employees in this country. There will be a stripping back of awards to just four provisions—annual leave, parental leave, personal leave and maximum number of ordinary hours, plus whatever the new minimum wage is to be. There is the removal of unfair dismissal provisions for employees working for a business of up to 100 staff, and, finally, a so-called review of the number of awards with the stated intention of slashing the current approximately 4,000 back to a handful. Presumably, in that slash and burn effort, no one’s wages and conditions—or minima—are going to be increased, but rather will be decreased back to whatever remains in the award minima to be determined. We are effectively presented with the deregulation of most of the wages and conditions applying to Australian workers in this country. This deregulation principle that the Liberal-National Party has adopted, effectively treats Australian workers, human beings, as just another market commodity to be traded and sold like any other good or service. That is the fundamental approach of this government.

The consequence of this bill will be profound in its economic and social impact on Australian families, because it will remove what is a strong, fair safety net that currently protects Australian workers and their families. Deeply embedded in Australian economic and social culture is the notion of the fair go principle. That is what distinguishes Australia from most, if not all, other similar types of advanced economy countries around the world. Take, for example, the United States. The concept of the fair go principle in the United States, compared to Australia, is very weak indeed. Over time, it is not going to happen the day after the bill passes, we will see the gradual erosion and a withering away of wages and conditions for millions of Australians.

This bill most starkly represents the Americanisation of Australian society. This
Liberal government has taken up with great gusto elements of economic and social policy from the United States. We have seen it in other areas, such as education and health, but its most significant and serious impact is represented by the bill that we are considering. It will lead to growing numbers of working poor in Australia.

What is interesting to note about this particular legislation is that not one word of it was mentioned prior to the last election. Senator McGauran looks slightly astounded—I will get to the astounded and squashed National Party a little later in my comments. If you look at Liberal-National Party policy, there was not one word mentioned of this particular legislation prior to the last election. It was only mentioned after the election when the Liberal-National Party discovered that it had a majority in the Senate. I remember the words of the Prime Minister at that stage when he publicly stated that there would be no extreme legislation presented and that the government would not take advantage of the majority it had in the Senate. Do you remember that commitment by the Prime Minister, Mr Howard? Like a lot of other commitments that we can remember—like the ‘never, ever’ comments about the GST—it did not last very long.

Also, it is interesting that, at the last election, the Liberal-National party signed up to family impact statements on legislation. Where is the family impact statement on this particular piece of legislation? This is yet another convenient promise made by the Prime Minister, Mr Howard, and forgotten as soon as the government had the opportunity with the majority in the Senate given to them in last election. There was not one word of this so-called reform mentioned prior to the last election.

What we saw after the election, of course, was the top end of town at it straightaway.

The Business Council of Australia, ACCI and other principal business interests, were immediately saying to the government, ‘You should not miss this opportunity; get in there, reduce wages and conditions of Australian workers in the name of flexibility.’ Of course, it did not take long for the Liberal-National Party to buckle. Within a couple of weeks they were announcing a radical, draconian shake-up—effectively, deregulation of our industrial relations system. It did not need much pressure, of course, because ideologically the Liberal-National Party have always wanted to deregulate the labour market. That is what drives this particular piece of legislation. So they could not resist the temptation of a Senate majority and they could not resist the pressure because, as I said, ideologically that has always been their view and, certainly, the long stated view of the Prime Minister. He has just never had the opportunity. I think that this bill, more than anything, and the approach of this government, reflects arrogance. They are out of touch with the community. It is about reducing the security of Australian workers and their families. That is what it is all about.

I have to say that I have been pleased at the awareness in the broader community of the implications of this legislation. In my 15 years in the Senate, I have only ever encountered a similar volume of comment from the ordinary person in the street where I live on one other issue, and that was the GST. There is certainly very significant concern about this legislation in the community—as there should be.

The Liberal Party, in particular, is fond of using the word ‘choice’. It is used as a convenient title, as a badge, for anything nasty that it wants to do. So, if you want to do something nasty, don’t call it deregulation—goodness gracious, if you called it deregulation, the reaction would be even worse; what you do is attach to the title the word ‘choice’.

CHAMBER
The claim is that it is all about choice, flexibility and productivity. The claim by the government is that individuals and the country’s economic prosperity will improve. I want to pose a fundamental question: if, as the Liberal-National Party claim, we have enjoyed 14 years of economic growth, why change the current system? Why change the current industrial relations system if the economy is doing so well?

Senator McGauran—For the future ageing population.

Senator SHERRY—The ageing population? I might get to that later, if that is the limit of your contribution, Senator McGauran—

Senator McGauran—That is one part of it. You wanted an answer.

Senator SHERRY—The Labor Party in government did more in relation to the ageing population issue by introducing compulsory superannuation, Senator McGauran—

Senator McGauran—You opposed funding the ageing population and funding retirement incomes.

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Senator Sherry, I think you should address your remarks through the chair.

Senator SHERRY—Thank you, I will. Senator McGauran is interjecting. He can make his own speech. The weight of evidence does not justify the claim that this government has made about the so-called economic benefits. In fact, the central case the government puts forward is false. It is a false argument—albeit, it is the only argument the government can latch on to to cover what it effectively intends to do. It is a deliberate pitch at, I might say, taxpayer expense. We have this appallingly extravagant and costly propaganda campaign that will reach a total of some $55 million before the legislation even passes. If you are going to have a legitimate education campaign to inform the community about the implications and details of a new law, why do we have a $55 million campaign before the bill passes the parliament? We have never seen such an extraordinarily extravagant, costly campaign in Australian history. Thank goodness for the ACTU: they have alerted the Australian community to this appalling legislation. They should be congratulated on their community campaign.

I live on the north-west coast of Tasmania. In my home state of Tasmania, UnionsTas, with hundreds of grassroots activists—and this is what should worry the Liberal-National Party—on the north-west coast of Tasmania have been running a very strong campaign informing people in the community about the impact this legislation is going to have. Last weekend I was at the Devonport show, where UnionsTas had a stall. I have to say that it was more popular than the Labor Party stall, the Liberal Party stall and every other stall in that particular shed at the show. There was enormous community concern expressed as people lined up to sign the petitions and to gather information about what was going on. I congratulate the union activists for the work they have done. This grassroots campaign will continue on to the next election—have no doubt about that. The Labor Party’s campaign and the grassroots campaign through the union movement will continue. Even a $55 million taxpayer funded propaganda campaign will not be able to overcome the effective communication of that grassroots campaign that we are seeing.

My philosophical approach is that central to any civilised society and central to the Australian ethos is the notion of a fair go. I am proud to say that the notion of a fair go was a founding principle of the Labor Party and the need for government to intervene to redress the balance between the employer...
and the employee. It is the owners of capital who have the greatest bargaining power. This notion of choice is a misnomer. It is not a level playing field. An individual is expected, as a consequence of this legislation, to individually bargain with an employer. The employer has the absolute right to hire and fire. They are the ones who employ and also fire. But the employer also has significant resources that an employee or potential employee does not have. An employer has accountants, lawyers and, in many cases, specialist industrial relations officers to assist them.

What I find interesting about AWAs is that an employee can present an AWA but I have never heard of them doing it. I have never heard of an individual fronting up with their own AWA and saying to the employer, ‘What about my AWA?’ This is the choice we have got. It is always the employer putting the AWA in front of the employee. The reality is—and this is where it is not a level playing field—that, if you do not sign the AWA, you do not get the job. If you do not accept what is in the AWA, you do not get the job. That is not a level playing field as far as negotiations go. Our current industrial relations system does intervene in the market in the name of social justice and fairness and it does intervene to redress the bargaining balance between an employee and an employer. That is a very important part of the Australian social ethos.

We also saw the arrogance of this government on display with respect to the committee inquiry. We had a quickie five-day Senate inquiry. Mr Howard, the Prime Minister, claims: ‘There was no need for an inquiry; we’ve had inquiries into industrial relations in the past.’ That is true, but we have never had a fair dinkum inquiry into the massive new deregulatory and radical provisions that are in this bill. So what do we get? We get an arrogant government shoving the bill through the Senate and saying, ‘We’ve got the numbers.’ That is the attitude that we are being confronted with here time and time again.

Senator McGauran is in the chamber. I can never resist the temptation to remind him about the position of the National Party. Senator Joyce is here as well. We heard a lot of noise from Senator Joyce on behalf of the Queensland National Party last week. They were going to fight to ensure that significant public holidays could not be taken off employees. They were going to fight for Christmas Day, Anzac Day and Good Friday. They were also going to fight to stop companies restructuring to take advantage of the 100 employee cut-off point below which unfair dismissal provisions do not apply. Have we got? Senator Joyce cannot even save Christmas Day. There was a lot of noise from Senator Joyce, but the only way to effectively ensure that all public holidays are adequately protected is to have a penalty which applies to all public holidays and which cannot be taken off employees. Senator Joyce laughs and smiles but what we had last week was the usual Joyce histrionics and National Party positioning. What has he delivered? He cannot even save Christmas Day.

I referred earlier to Devonport Show Day. On the north-west coast of Tasmania, we have—

Senator McGauran—We did not save that!

Senator SHERRY—I will take that interjection, Senator McGauran. Devonport Show Day is a very important—and they laugh—local public holiday. You go round to the local show days in Victoria and Queensland and suggest that they should be wiped out and you will get a pretty—

Senator McGauran—They are not a public holiday.
Senator SHERRY—They are a public holiday in Tasmania, Senator McGauran. In Tasmania, we have locally declared and gazetted public holidays for our shows right around the state of Tasmania. They are very important. Those local public holidays, such as Devonport Show Day, King Island Show Day, Burnie Show Day and Hobart Regatta Day, are very important to a local community. It is not just the so-called iconic public holidays, such as Good Friday and Christmas Day, that are important. Local public holidays are very important to the fabric of our local communities, and they will slowly whither as a consequence of this legislation.

I recommend to the Senate and to those listening that they read the Senate report on this particular bill. Although it had to be rushed because of the arrogance of this government in wanting to push this legislation through the Senate by Christmas, it does go into some considerable detail—particularly in the Labor Party section of that report and in the report by the other cross-bench parties—about the so-called evidence being advanced about this legislation ensuring a stronger economy and stronger employment growth. Where is the empirical evidence that the deregulation of the labour market that will occur as a result of this bill will result in a stronger economy and lower unemployment? Where is the evidence?

If you look at the OECD countries—the advanced economies—and compare Australia to them, there are some countries with more tightly regulated labour markets that have lower unemployment rates and there are some that have more tightly regulated labour markets with higher unemployment rates. There is no clear empirical evidence that deregulating the labour market will of itself ensure a stronger economy or lower unemployment. The reality is that a strong economy and lower unemployment are consequences of a whole range of economic and social policies. They will not, as this government in its propaganda campaign is claiming, flow as consequences of this particular radical deregulation of the Australian labour market. They will not happen as consequences of this bill.

The Liberal-National Party claim this because it is the only line they have to try to justify this legislation, but there is no clear evidence that that will occur. I urge interested people to look at the economic evidence, because it does not exist. It is an assertion; it is a claim. It is a propaganda line of this government that is being projected on the airwaves and in newspapers to the tune of $55 million. (Time expired)

Senator JOYCE (Queensland) (6.27 pm)—The unrepresentative and bullying days of the unions are over, and it is the end of the funding mechanism of the Australian Labor Party. The Labor Party has to move to a new horizon and stop believing that representing 17 per cent—and falling—and representing 17 per cent—and falling—of the Australian private sector work force is a reason to believe that it has the right to govern Australia for all. The Labor Party has to take a leaf from Tony Blair’s book and move on. Maybe that is an ominous sign for the current leadership in the Australian Labor Party. The whole farce of open ballots, antagonism and standover tactics in the workplace is a dying art form, and it is great to preside over the end of those bitter days—so prevalent in the past—when all on a work site had to participate in unions out of threat rather than conviction.

The new Australia is the vision of small business, with the entrepreneurial spirit being the powerhouse driving us forward. Today is the era of the efficient enterprise working for a profit that is only limited by effort and managerial skill. The greatest fear the local electrician has is that his work force will one day become his competition. Guess
what? They will. This promotes the idea that if you think for yourself early you will work for yourself later. The automatism of being shackled to awards has to be taken over by self-determination of one’s own future.

However, the government must protect the vulnerable and keep the basic social infrastructure in place for a harmonious and continuous Australian culture. We have spent a great deal of time making sure that we amend this legislation to protect the intent of the lower house while maintaining the protections for those who are the most vulnerable. To this purpose, and with my Senate colleagues in this house, we have secured amendments. These are noted in the committee report and additional items.

The process of the Senate and its committees has called for, and shall secure, amendments on such items as outworker provisions, prohibited content, AWA terminations, apprenticeship provisions, averaging of hours and annual leave. It was the work of the National Party in this chamber that has also secured amendments on pay periods—the whole debunking of the myth that you can only get paid yearly. Obviously, that will default to fortnightly, so we have come in on that.

The National Party has come in and protected the iconic public holidays—in fact, all public holidays. So there will be a Good Friday, Christmas Day, Boxing Day, Anzac Day and Australia Day. When you have Christmas this year, you can thank the National Party for protecting that day. It is better than penalty rates because it protects your right, if you so choose, not to go to work. You cannot be sacked, and they cannot change your conditions because you have not gone to work. You must get paid ordinary hours if you are at home with your children. So the only alternative for the employer is to offer you something far more substantial than what you get paid for staying at home, and you still have the right that they cannot sack you. It is better than penalty rates.

The closure of loopholes is another National Party success story. We will be closing the loopholes for organisations so that a middle manager in a large organisation does not have the unencumbered right of dismissal over you. We do that because we think it is fair and just. It is another amendment that the National Party have secured in working with this legislation. The legislation is being taken to the High Court to confirm or otherwise its constitutional validity and the protection of states’ rights. I am sure the full bench of the High Court has a better idea of states’ rights than I. State awards will still exist, and there will still be a vast number of employees in the state public service, for instance, who will not be affected by this.

The new system has a range of safeguards. The Fair Pay Commission will be operational and representative of all. While ensuring fair outcomes and balancing competing demands, it will protect those who are most vulnerable. The Australian Industrial Relations Commission is conducting the 2005 safety net review, and the new minimum wage that comes out of this process will be locked in following this review and will continue to increase through future decisions made by the Fair Pay Commission. As is the case now, where very few get paid at the award and the vast majority get paid above it, this will continue under the Fair Pay Commission by reason of the demand for labour being greater than the supply due to the National-Liberal management of the economy.

Dignity and respect will remain the vestige of the Australian character and laws. The final protection mechanism will remain in place to give all employees a safety net, just in case any employer forgets and decides that they will chance their arm with exploitation.
The Nationals have sought assurances that the Office of the Employment Advocate and the Office of Workplace Services will be spread over the nation, and officers will be in places such as Emerald, Toowoomba, Charleville and Townsville. The Employment Advocate will afford everyone—everyone—protection without the indignity of being forced to pay union membership fees, a proportion of which are siphoned off to support political parties and political campaigns, regardless of the convictions of the members.

Very few employers will have any hope of attaining their labour requirements if all they offer is the safety net and their competitors are offering more. Remember the primary purpose of these changes is simplification of a system that governs employment in Australia. We must simplify a system that allows for the ridiculous situation of having one workplace being governed by rules and regulations from differing jurisdictions—a situation that has led to small organisations expending resources on administering paper rather than engaging in productive activities. By modernising and simplifying the industrial relations system, we will give the many mums and dads who run many of our small businesses the confidence that they can employ people, allowing them to expand their businesses, seek out new opportunities or simply have some time off for themselves.

Finally, the legislation will be the judgment of the Australian people, who at the next election will have the opportunity, if they so wish, to give the strongest message possible on how they feel about the government’s direction. No legislation of any type is locked in for perpetuity, and the purpose of the government is to match the legislation to the requirements of the times. If in times to come changes are required, changes will be made. This is Capital Hill, not Mount Sinai, and legislation is drafted on paper and not handed down in stone. It is convenient to promote the argument that the world will change as of next week, but it will not, and those who have said that it will are going to look a little foolish when it does not come to pass.

So the Senate has been assured of these amendments. Much to the surprise of my good colleagues on the other side who now have egg on their faces, what they said we would not get we are securing right at this moment—there is a joint party meeting as I speak—and that is those amendments. It is convenient to promote the argument. So the Senate has been assured of these amendments, the majority of which have been raised by the Senate committee. This is yet another indication of the operation of the Senate continuing as a separate house and unaffected in its commitment to its role, regardless of its political make-up.

The dignity and purpose of this house shall continue on. The apocryphal bards have predicted the demise of the government so often that the masses are starting to doubt these palace shamans as they continue falling over, frothing at the mouth and predicting the end of the world. Yet every year we seem to get wealthier in real terms and, as a nation, stronger. In this instance, my good colleagues on the other side have put all their eggs in the one basket that this IR chariot is pulled by every horse of the apocalypse and, if Australians find that their world does not end, they may just start to believe that, instead of a reasoned opposition who suggested constructive changes, you are morphing into the little boy who cried wolf just one too many times. The unfortunate thing about crying wolf for the opposite side is that you actually have to deliver the wolf, and when you continue to fail to produce the specimen you all end up looking unreliable.

The interesting thing for the future will be what path federally the Labor Party take, as
they realise the well of trade unionism has run dry and now they must be brave enough to build a party that inspires a new constituency. It is essential for Australian democracy that they do, and although I belong to the government I wish them all the best and will watch with interest. If they fail, the Greens, who are continuing to eat into their constituency, will eat further into the left-hand side of the Labor Party, and the National Party and others on this side will reach further into the right-hand side. The Australian Labor Party have to stop holding out the forlorn hope that there will be a depression and that the associated misery will inspire new membership for them.

You have to get smarter and move forward in the paradigm of the new social economic conditions. The 1930s ‘Comrade, how are you?’ lingua franca is anachronistic, ridiculous and insincere. For the punters on the street, it makes their flesh creep. They wonder where you have been for the last 70 years. If they grew up in Latham’s happy Green Valley, they certainly do not want to go back there.

The basis of a viable social structure is high employment and structured endeavour that leads to a robust, broad based economy. The major job that accountants now do in regional towns and metropolitan cities is set up new businesses with new ABNs. All of these new National Party and Liberal Party voters are making the move to self-determination. It is a wonderful feeling and a wonderful thing to see. We make sure we monitor the process closely so they are not getting exploited, but generally they are just getting wealthier, with a higher sense of self-esteem and a clearer destiny.

Senator Sterle interjecting—

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Senator Sterle, Senator Joyce listened to a provocative speech in silence. I expect him to be listened to in silence as well. There will be no interjecting.

Senator JOYCE—Those opposite should take note of the fact that there are now over 5.1 million active ABNs in Australia. That is more than in union membership, by the way. We have been so successful in putting people into business that it is very hard to find spare labour. If you have your labour to sell, you can ask for a premium price. What we have seen over the past few years with the introduction of AWAs are flexible arrangements within workplaces which better match employee and employer needs to the benefit of both groups.

We have seen examples such as Diana Williams, an Australian Business Woman of the Year, who has an almost 3,000-strong work force on AWAs. These agreements allowed flexibility which enabled very generous maternity leave arrangements as part of the working agreement. It is this flexibility that both employees and employers are demanding. There are vast numbers of plant operators and workers on mine sites in my state—and I imagine in yours, Senator Sterle—that get paid far more than us here in this house. One hundred and sixty thousand dollars a year is not unusual. There are a lot of people here who are not seeing that money. If a wage is determined by supply and demand, there is a greater demand for plant operators on mine sites than there is for federal senators. That is where our economy is and we have to accept an industrial relations policy that deals with that environment. I am sure that the mine workers of Mount Isa are happy with their pay, but the mine site needs more workers. There may be a few here who, after the next election, will have a better paying future in that new line of work.

This legislation is designed for Australia’s needs. We must match the rules and regulations that govern these aspirations to these
times. Australia wants and votes for—listen to this—a government that is brave enough to lead. To lead means to look forward and head in that direction, dealing with the issues as they arise. To date, as with so many things, those opposite have failed to understand that the worker of 2005 is vastly different to the one their grandfather grew up with in 1932, comrades.

Senator O'Brien (Tasmania) (6.41 pm)—We just heard from a man who, before coming into this place, said to the people of Queensland that he would oppose and not vote for legislation to sell Telstra, and he did. Now he has invented a reason to prevent him from voting against this legislation—that is, he should simply amend legislation from the House of Representatives and not vote it down. What a movement in logic it has been for Senator Joyce since he was elected—from the point where he was prepared to and promised to vote against a piece of legislation to the point where now he says that he has not the right to do anything other than seek to make legislation better.

It is easy to present an argument when you invent the argument of those you want to argue against. We just heard a prime example of that from Senator Joyce, who concocted the structure of the opposition’s arguments. Not once have I heard any of those propositions put on this side of the chamber. But the Hansard will reveal how inaccurate the observations of the senator were. The fact of the matter is that he opened by talking about how this legislation would do what he hoped it would—that is, destroy the trade union movement. I do recall that there were a great many people on the other side of the chamber who marched in support of Solidarity, the Polish union, and talked about the rights of workers in Poland. But they are not prepared to do it here.

Senator McGauran—That was against the comrades!

Senator George Campbell—That was exactly the point, Senator McGauran, you mung!

The ACTING DEPUTY PRESIDENT—Order! Senator George Campbell, you will withdraw that.

Senator George Campbell—I withdraw it.

Senator O'Brien—As I said, this extreme and divisive industrial relations legislation is given expression in the Workplace Relations Amendment (Work Choices) Bill 2005 and I reject it. I do so as a senator for Tasmania who recognises the negative impact that this bill will have on job security and the standard of living of the people I represent. I do so as the shadow minister for transport concerned about transport workers and small transport businesses forced to give up conditions and cut costs under the proposed regime. I also do so as a former official of the Liquor, Hospitality and Miscellaneous Workers Union, a job where I proudly represented many of the lowest-paid workers in this country.

Any objective observer knows that there is very little equality in most Australian workplaces. The notion of employee bargaining power is a misnomer in most circumstances. It is a complete nonsense in workplaces made up of young, poorly educated, part-time or casual employees. The current edition of the National Indigenous Times highlights another group of workers who do not enjoy equal power in the workplace: Indigenous Australians. Professor Larissa Behrendt writes:
... much of our mob ... are less educated than the rest of the country, are already more likely to be unemployed, may have English as a second language and will live in remote and rural areas where there are less jobs.

She continues:

Even the many of us who live in the city know that the job market can still favour a non-Aboriginal employee and that good jobs can still be hard to come by if you do not have a high level of education.

Australia, frankly, has a shameful history with respect to the employment rights of Indigenous Australians. Anyone with knowledge of the Northern Territory cattle industry knows well the past exploitation to which Indigenous Australians were subject on the ground of race. But that is not the only place or the only industry where Indigenous Australians have been ill-served by the industrial laws of this country. These new laws will inaugurate another shameful chapter. The Howard government talks a lot about the economic empowerment of Indigenous Australians, so it is beyond comprehension that it is moving to destroy the protections afforded to vulnerable workers, including Indigenous Australians, in the workplace.

An enduring characteristic of the Australian industrial relations system—fairness—will be discarded because the Howard government has won control of the Senate and cannot restrain itself. The government did not present a radical industrial manifesto to the Australian people at last year’s election. It did not do so because it knew that the Australian people would reject its agenda. Honesty has not been the hallmark of the Howard government years, so it is little surprise that the Australian people would reject its agenda. Honesty has not been the hallmark of the Howard government years, so it is little surprise that the government kept its radical agenda secret. It is bad enough to undermine the wages and conditions of working Australians, but to do so without seeking the endorsement of the people is beyond the pale. After the election it was clear that the government’s industrial relations agenda had shifted when the Prime Minister refused to reaffirm his guarantee that legislative changes would not leave Australian workers worse off. The shadow minister for industrial relations, Stephen Smith, is right when he says that the reason the Prime Minister will not offer a guarantee is that making workers worse off is a public policy objective of this government.

There are many obnoxious features of the Work Choices bill. I want to focus on three: the attack on the minimum wage, the sponsored coercion of workers to sign Australian workplace agreements and the shredding of unfair dismissal protection. No aspect of this bill is more loathsome than the attack on the minimum wage. The Howard government record speaks for itself. The plain fact is that if this government’s national wage case submissions had been adopted today’s minimum wage would be lower to the tune of $50 a week, or $2,600 a year. In real terms, the minimum wage would have fallen by 1.55 per cent since 1996.

The government could not win an argument before the Industrial Relations Commission, so it has acted to take away its wage fixing powers. This bill grants those powers to the so-called Fair Pay Commission. This new commission lacks the independence from government enjoyed by the Industrial Relations Commission. To make doubly sure that the Fair Pay Commission delivers the result demanded by the government—that is, a falling minimum wage in real terms—fairness cannot inform its deliberations. The proposed section 7J establishes the Fair Pay Commission’s wage fixing parameters, and fairness is not one of them.

Currently, section 88B(2) of the Workplace Relations Act 1996 provides that the Industrial Relations Commission must ensure ‘a safety net of fair minimum wages and conditions of employment is established and
maintained’. In exercising its wage fixing function, the first matter the Industrial Relations Commission must have regard to is the need to provide fair minimum standards for employees in the context of living standards generally prevailing in the Australian community. With the passage of the Work Choices bill the requirement for fairness will be no more. It is a sick joke that the government pulped tens of thousands of propaganda booklets because they did not contain the word ‘fair’. Yet the legislation ensures that the Fair Pay Commission cannot take fairness into account when exercising its wage fixing responsibilities.

The second aspect of the bill that I want to address is the plan to allow employers to force workers into Australian workplace agreements. The bill facilitates—indeed promotes—the exercise of industrial thuggery by employers. It is clear that the Howard government has been embarrassed by the minimal take-up of AWAs by the Australian workforce. The fact is that Australian workers, contrary to what has been said, do not want them. So what is the government’s response? A green flag for employers to coerce workers to give up hard-won conditions of employment in exchange for an AWA or, if they will not sign the contract, a boot out the front door. On the face of it, the bill contains a similar prohibition on coercion to that which is contained in the existing bill. The new proposed section—

Debate interrupted.

**DOCUMENTS**

**Human Rights and Equal Opportunity Commission**

Senator BARTLETT (Queensland) (6.50 pm)—I move:

That the Senate take note of the document.

This document is the annual report of the Human Rights and Equal Opportunity Commission, which was tabled in the Senate today. I think it is important to briefly note this report, because the work that the Human Rights and Equal Opportunity Commission does is vitally important. I have only five minutes to address it at the moment, so I will rush through some of the significant achievements that are listed in the report. The report draws attention to the fact that in August of this year the federal government released all children from immigration detention. It rightly notes that the report by the Human Rights Commissioner into children in immigration detention, called *A last resort?*, played a significant role, along with the work of many other individuals and community groups of course, in achieving this very positive outcome.

If that were all that the Commission had achieved in the space of 12 months that alone would be well and truly worth the cost. But it does much more than that, of course. It released a paper about the importance for men and women of striking a balance between work and family, released by the Sex Discrimination Commissioner in June this year. That has been a key part of a wide-ranging debate, including on the legislation which Senator O’Brien and many others have been debating over the last few days.

I would also draw attention to the commission’s report from 2004 on the national consultations on eliminating prejudice against Muslim and Arab Australians. It is an absolutely vital report. I would urge and hope that all senators and many others revisit it as part of the debate on national security matters. The preliminary evaluations of that report showed significant education and awareness programs run by Arab and Muslim communities, as well as by government, police and others, as a direct and indirect result of that report’s recommendations. That is a very important and positive result from that aspect of the commission’s work.
There were also consultations held with regard to mental health services in Australia, with a report due soon. An eight-page community guide summarising both the social justice report and the native title report was distributed in national Indigenous newspapers to make those reports more accessible to those communities. There was the publication of a report on federal discrimination law. This annual report also details the complaints handling, which finalised 91 per cent of complaints within 12 months, exceeding the key performance indicators. The commission also finalised its work in two significant intervention matters regarding the detention of asylum seekers under Australia’s migration laws. And it continues to play a part in the legislative process by making submissions to inquiries held by Senate and other parliamentary committees, not least with regard to the recent inquiry into the antiterrorism legislation. There were over 15,000 subscribers added to the 10 electronic mailing lists of the commission, bringing the total number of subscribers to 36,000. The number of webpage views in the last relevant financial year was a total of over 5½ million.

That is just a snapshot, and not a complete oversight of the work of the commission in the relevant time frame. It is very much worth drawing attention to and praising. There is often a lot of ill-informed commentary in some parts of the community suggesting bodies such as the Human Rights Commission serve no useful purpose and are some sort of nanny-state apparatus that tells people what to do. Nothing could be further from the truth. This report provides the substance to show how facile those arguments are.

I would also like to take the opportunity in the brief time available to me to note the report launched by the commission just yesterday into young people’s knowledge about human rights and their views on a wide range of rights related issues. The report is called *Rights of passage*. It is the final report issued by the Human Rights Commissioner, Dr Sev Ozdowski, before he finishes his five-year tenure next week. I would like to take the opportunity to pay tribute to Dr Ozdowski’s work in a range of areas and particularly, from my experience, in the area of immigration law and detention. The report shows that young people are not without their views and concerns, particularly on issues such as social isolation, mental health problems, bullying, racism and homophobia. The report also highlights the importance of human rights education programs and resources to teachers and students. It shows the direct link between knowledge, attitudes and end behaviour. For all the talk we have at the moment about the behaviour of people, we need to look back to the start. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Administrative Appeals Tribunal**

**Senator BARTLETT** (Queensland) (6.57 pm)—I move:

That the Senate take note of the document.

This document is the annual report for the Administrative Appeals Tribunal, which was tabled in the Senate yesterday. Again, there is only five minutes to go over this issue, so I cannot do it full justice. I would like to highlight this report as part of drawing attention to the practical realities underlying some of the theoretical and rhetorical debates that we have been having about basic legal rights.

One example is a case that was ruled on by the deputy president of the Administrative Appeals Tribunal back in October—the case of SRHHH appealing against the minister for immigration. The person was an Afghan. It was found by the tribunal that there were no serious reasons for considering that the applicant had engaged in conduct within the relevant part of the refugee convention which had
previously been used to disqualify that person from receiving a protection visa—a refugee visa. That finding came more than six years after the person initially arrived in Australia with his wife and children. His wife and children are now out in the community. They have been out in the community from a very early period—back in 1999. They are now Australian citizens. His children have grown up without him throughout the six-year period that he has remained in Villawood detention centre. More than six weeks after the Administrative Appeals Tribunal finding, which remitted the matter back to the immigration minister for consideration, that man, unless the situation has changed in the last day and I have not heard about it, is still in detention. He is imprisoned, separated from his Australian-citizen wife and children, as he has been now for well over six years.

The extraordinary reason he is still there is that, having gone through all the trauma over more than six years to finally have the assessment made that there were no character or other improper action grounds for refusing him a visa, it is only at that stage that the ASIO assessment kicked in. We have had him sitting in jail for over six years. We waited till he was finally found not to be disqualified under the relevant part of the refugee convention and then we decided to get ASIO to have a look at doing the relevant checks that they are required to do under the Migration Act. And during all that period he stays locked up.

This person’s case was originally put before the Administrative Appeals Tribunal back in 2001, I think. At that time he was accused of a range of activities constituting crimes against humanity under the refugee convention which would disqualify him from getting a protection visa. Obviously it is appropriate for those allegations to be considered, but extraordinarily—and I think this is very telling because it is the sort of thing that can happen to any one of us—he was not given the opportunity before that tribunal to see the details of the allegations made against him. He could not respond to them despite an original order by the tribunal member that he be provided with details by the immigration department of the allegations made against him—what the specifics were, when they were supposed to have occurred and what the nature of them was. That information was not provided to him and, because he could not respond to those allegations, not surprisingly he did not do a very good job of defending himself against them because he did not know what they were.

He was then refused a visa on those grounds. It was not until 2004 that a full Federal Court judgment, Applicant S214 versus the Minister, of 2002, brought down on 26 March 2004, found that he had been denied procedural fairness. It was a decision that was originally upheld by the first Federal Court judge. Because a person was not able to respond to anonymous allegations made against him and because he was not given the detail of those allegations so he could defend himself, he has spent six years in detention, I would argue wrongfully, whilst his wife and child have lived without him. They are Australian citizens and the husband has continued to be locked up for over six years purely because anonymous allegations were made and he was not able to defend himself on so-called security grounds. That is a perfect example of the sort of thing that can happen to any one of us when security grounds are used to allow a complete denial of procedural fairness. (Time expired)

Question agreed to.
Equal Opportunity for Women in the Workplace Agency

Senator MARSHALL (Victoria) (7.02 pm)—I move:

That the Senate take note of the document.

In moving to take note of the Equal Opportunity for Women in the Workplace Agency’s report for 2004-05, I note that women are going to be especially disadvantaged by the application of the Work Choices legislation, particularly in the area of unfair dismissals. This was something that the Senate inquiry, due to its terms of reference, was forbidden to investigate. However, during that inquiry Senator Barnett from the government did introduce unfair dismissals into the inquiry and I want to bring to the Senate’s attention this exchange in the committee Hansard, Senator Barnett asked Professor Peetz, who was a witness appearing before the committee, this question:

Do you stand by your statement that a boss can sack you for chewing gum?

Professor Peetz replied:

If you are in a firm with fewer than 100 employees, then you can be sacked for any reason whatsoever unless it is an unlawful termination. Unlawful termination relates to discrimination. There are discriminatory reasons. Chewing gum is not a discriminatory reason covered by the unlawful termination provisions. Therefore, if you are in a firm with fewer than 100 employees, you could be sacked for chewing gum. I am not saying that an employer would sack you for chewing gum; I am saying what is possible. In firms with more than 100 employees—where operational reasons apply—if you are precluded from making a claim because of what the bill defines as operational reasons, then it does not matter what other aspects of your dismissal were relevant to your dismissal. You cannot make a claim. So if the employer is able to create a situation in which you are covered by economic, structural, technical or similar reasons for dismissal as part of the reason for dismissal, then you can be dismissed.

Senator Barnett later said:

I hope you know that what you are saying is wrong, and that you have recourse to the Australian Industrial Relations Commission.

In the Senate committee on the last day of the hearing we had the opportunity to question the Department of Employment and Workplace Relations. I wanted to get to the bottom of this, because 151 academics supported the submission by Professor Peetz and Senator Barnett said that Professor Peetz was wrong. So I asked the departmental officials:

Senator Barnett asked Professor Peetz this question yesterday:

Do you stand by your statement that a boss can sack you for chewing gum?

Professor Peetz said:

Chewing gum is not a discriminatory reason covered by the unlawful termination provisions.

Is that the case?

The departmental official concerned, a Ms Centenera, said:

Yes, assuming another prohibited reason does not apply.

I said:

We are talking about chewing gum only.

Ms Centenera said:

Yes, that is correct.

The evidence quite clearly is on the table that chewing gum is not a discriminatory reason and therefore you clearly can be sacked. No-one is saying that someone would sack you for chewing gum but we were trying to get to the bottom of what is possible and what is not. I made the point, and we made the point in the report, that we were quite staggered that a government senator on a committee inquiring into this report had really failed to grasp the consequences of the legislation that we were inquiring into, and I was very disappointed about that.

But even after that had been included in the report, even though we had questioned the department about this specifically and
even though the department had agreed that chewing gum was not a discriminatory reason and therefore you could be sacked for chewing gum, we heard Senator Barnett again yesterday in his speech in the second reading debate trying to argue the case that you cannot be sacked for chewing gum. I find it staggering that not only could he not work it out at the time we were investigating the bill before us but that, after all the evidence has been presented, after the Department of Employment and Workplace Relations has agreed that it is not a discriminatory reason and therefore you can be sacked if the employer decides on the spot that chewing gum is a sackable offence, he still cannot work it out. Without any discussion or any recourse an employer can simply terminate an employee for chewing gum and they can terminate you for any other reason that is not a discriminatory reason.

That reinforces the very hollow promise that this government gives, underpinning the Work Choices legislation, that people are protected from duress. Where an employer can simply concoct any reason to terminate an employee, there is duress in the workplace. If anyone on the other side of the house suggests that there will be no duress as applied by the impact of this bill on normal working Australians then they are completely deluding themselves, just like Senator Barnett, who, when all the evidence is put in front of him, cannot come to the conclusion that you can be sacked unfairly. I seek leave to continue my remarks later.

Leave granted.

Senator McGauran (Victoria) (7.08 pm)—I rise to speak briefly as I feel that Senator Ludwig’s comments—I apologise: Senator Marshall’s comments—

Opposition senators interjecting—

Senator McGauran—You all merge into one over there after a few years in government, because you all mouth the same things. I can barely separate what you say and what you look like sometimes. You are just one big monolith for the union movement.

Senator Sherry—Madam Acting Deputy President, on a point of order: is what senators look relevant to the debate? The point of order is relevance. Senator McGauran is not speaking to the report. The report is not on the looks or otherwise of senators in this chamber.

The ACTING DEPUTY PRESIDENT (Senator Moore)—Senator, I do not accept that you have a point of order.

Senator McGauran—As is so frequently the case with Senator what’s-his-name over there.

The ACTING DEPUTY PRESIDENT—Senator, I think you should withdraw that comment.

Senator McGauran—I withdraw it. Of course it is Senator Sherry. Anyone would know him by voice, by looks and by the absurd points of order he often takes in this chamber. To be brief on this matter, I feel that Senator Marshall’s comments have to be challenged because they use the classic tactic we have been getting from the opposition through this whole industrial relations debate. It is to build this straw case—as those listening to the broadcast would have heard—of saying: ‘Chewing gum will get you sacked. Look out, Mr Worker. Look out, labourers. The big, bad boss will get you if you so much as look sideways or if you so much as chew gum.’ They build this straw case and attempt the classic fear tactics. Hasn’t the argument from the other side reached the absolute absurd, if not the desperate, if this is what they are citing as the terror within the detail of this legislation—that the big, bad boss will get you for absolutely anything now? That utterly lacks an
understanding of the reality of the workplace. How out of touch can you get, particularly in today’s workplace? That was not the reality of the workplace 10 years ago, let alone today’s workplace where labour is in short supply. The opposition have completely missed the reality of the workplace.

I feel like we are at a mad hatter’s tea party during this debate in which the absolute absurd is being discussed. You are all sitting around the table discussing the absolute stupidity of whether you will get dismissed for chewing gum or not. The truth of the matter is that, in itself, of course you will not get sacked for chewing gum. If you are inside a factory, it could be—

Senator Sherry—Do you guarantee it?

Senator McGauran—I will guarantee it. Come into this chamber one day, once this legislation is passed, and tell me of the person who has been rightfully sacked for chewing gum. This is not the mad hatter’s tea party, Senator Sherry. People will not get sacked for chewing gum, in itself. I qualify that by saying ‘in itself’.

Senator Sherry—Madam Acting Deputy President, I rise on two points of order. Firstly, Senator McGauran should not be responding to disorderly injections from this side of the chamber!

The ACTING DEPUTY PRESIDENT—Thank you for that advice, Senator Sherry!

Senator Sherry—My second point of order is that he promised this would be brief, and it has gone on far too long.

The ACTING DEPUTY PRESIDENT—The senator has his five minutes, Senator.

Senator McGauran—This has gone further than I thought, because the more I dwell on the matter the more I see the absurdity in it. I am hoping—it is a feigned attempt—to try and get it across to the other side. As I said, I will guarantee, Senator Sherry, that, in itself, no-one will be sacked for chewing gum. I obviously know the reality of the workplace better than you. You have such a factory mentality. You are thinking: if you are chewing gum while you are working in a factory, how could you possibly be sacked for that? Of course you could not. It is probably encouraged. But, Senator Sherry, what if the case is that you are chewing gum at reception at a five-star hotel? You might even have a spit in the spittoon. There is an order of conduct. I think there would be some workplaces where chewing gum is out of place, where you could be rightfully warned. Whether you are sacked or not is another thing, but you could be rightfully warned to take the gum out of your mouth. I dare say if you came into this chamber and started chewing gum you would be brought to order by this most efficient and respectable chair. And so you ought to be. You are not allowed to eat in this chamber. Do you reckon you would be sacked or kicked out if you came into this chamber and ate? Come on! Stop dragging us into your mad hatter’s tea party.

Senator Hogg (Queensland) (7.12 pm)—I rise on the same matter, to take note of the report of the Equal Opportunity for Women in the Workplace Agency. I normally would not rise on one of these matters—

Senator McGauran—Nor would I.

Senator Hogg—No, and I am sorry you did, Senator McGauran, because I think the Australian public, if they are listening, must be really quite ashamed of what they have just heard in this chamber. As a person who has worked for a long period of time as a trade union official—for which I do not make and never have made any apology in this chamber—let me just put you in your place. I will cite an example of something that actually happened in a workplace and that I handled for a woman a number of
years ago. It was not under the regime that you are endeavouring in put place now, but under a regime where there was supposedly greater protection for equal opportunity for women in the workplace than will exist post the passing of this legislation.

The particular case that I cite was of a young woman—and I have cited this case before in this chamber—who worked in a retail outlet. As happens in some retail outlets, she was the sole employee engaged at any one time. She did not work for a very decent employer. Indeed, she worked for quite a reprehensible employer, as it turned out, because this woman was not given the opportunity to have any breaks throughout the day, whether it be to go to the toilet, to go for lunch or even to just have a break from the tedium of the job. The job meant she was on her feet, being a retail employee, for most of the day.

That might not sound so bad unless you are the person faced with that predicament. She was faced with that predicament and also the predicament that, even with the protections under the then existing legislation and the then existing award, if she went to the union she knew she would be sacked from that job. She had no protection at all, in her mind, because of the fear that, if she went to the union just to get very basic, simple conditions, she would be dismissed from her job.

To make it worse, Senator McGauran—and it is not a laughing matter—when this woman went through her menstrual cycle and she was bleeding, she could not even get to the toilet to change her pads or do anything else, so she had to suffer the ignominy of that in her employment, which is something that you would not wish on anyone, particularly your own daughter, sister or mother. Yet this was something that this woman had to put up with in her employment. Of course, the employment regime that she suffered under was nowhere near as bad as what is being advocated by this government under the bill currently before this place.

Equal opportunity for women in the workplace is important, but it has to be real opportunity. It must not be something that is dreamed up in the minds of those who have never experienced the difficulties these people suffer. The fact is that firstly she felt vulnerable because she was a woman. That is not to be patronising to her; that was her frame of mind. The second thing about which she felt vulnerable was that it was a job that she had to hold onto to meet her commitments in the real world. The fact was that she knew that if she complained about her circumstances she would be dismissed. She would no longer have access to an income to give her the dignity that she was reasonably entitled to—but she did not get the dignity at work in the first place because the conditions there were aggressive towards her wellbeing and betterment in this world.

Whilst Senator McGauran made light of the example used by my colleague Senator Marshall, Senator Marshall nonetheless made a valid statement. Again, my experience has shown in industries that dismissal can be used against people purely and simply on the basis of their sex, their age or anything. The employer may choose anything that fits the bill for them to get rid of this person, and they will use it. Senator McGauran, I advise you to get out there into the real world and experience what real people have experienced and not rely on whatever comes out of the smoke-filled rooms on your side of parliament.

Senator SHERRY (Tasmania) (7.17 pm)—On the same point—
The ACTING DEPUTY PRESIDENT (Senator Moore)—Equal opportunity for women?

Senator SHERRY—Yes, equal opportunity for women. I am going to deal quite directly with the Equal Opportunity for Women in the Workplace Agency report for 2005-06 and the issues raised. Just by way of response to that largely irrelevant speech contributed by Senator McGauran from the National Party: I find it of passing interest that the only person on behalf of the Liberal-National Party government who can give any sort of guarantee about the outcome of the industrial relations legislation is Senator McGauran, and the only guarantee given is that no-one will be sacked for chewing chewing gum. That was the only guarantee we could extract from a representative of the Liberal-National Party government. That really does say a lot—

Senator Marshall—We’re all relieved!

Senator SHERRY—I am sure we are all relieved. What about a guarantee of no reductions in penalty rates, shift loadings or public holidays? What about a guarantee of no reduction over time in the minimum wage, Senator McGauran? You seem to have taken up the cause and been the personal emissary of the Prime Minister, Mr Howard. Why don’t you come in here and give a guarantee on other issues, Senator McGauran?

Senator McGauran may not be aware that there have actually been a number of unfair dismissal cases—I do not have the references here but I will get them and bring them here next week—involving the dismissal and reinstatement, fortunately, of individuals who have eaten a sweet out of a broken sweet packet in shops. They have been summarily dismissed and reinstated. Whilst it is not chewing gum, it is a very similar type of offence. The Labor Party does not allege that the majority or, indeed, a considerable minority of employers engage in poor treatment of and behaviour towards their employees. The Labor Party does not allege that. I seek leave to continue my remarks later.

Leave granted; debate interrupted.

Consideration

The following orders of the day relating to government documents were considered:


General business orders of the day nos 18, 19 and 20 relating to government documents were called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Moore)—Order! It being 7.20 pm, I propose the question:

That the Senate do now adjourn.

Mr Hugh Dunn

Senator TROOD (Queensland) (7.20 pm)—It is with great sadness that I advise the Senate of the death of a great Queenslander and servant of Australia, Mr Hugh Alexander Dunn. Mr Dunn was part of that extraordinary generation of Australians who joined the then Department of External Affairs either during or in the aftermath of World War II and who went on to lay the foundations of an independent Australian foreign policy. They were an academically accomplished group of men and women and they had a strong belief that Australia should have its own distinctive voice in international affairs. Hugh Dunn personified the best of them: dedicated to creating a profes-
sional foreign service and, as time went on, especially committed to Australia’s closer engagement with Asia.

Hugh was born in Rockhampton on 20 August 1923. The Dunn family eventually moved to Brisbane, where he was educated briefly at state schools and then at Brisbane Boys College. At the college he was both an academic and an athletic star. He was captain and dux in his final year and received colours for cricket, rowing, rugby and athletics. He was an especially talented rugby player, eventually representing Queensland. After leaving school in 1942, Hugh was drawn by the war into military service. He was attached to General MacArthur’s headquarters and was to become part of the first signals intelligence unit in Australia. He served with MacArthur in New Guinea and the Philippines and after the war made his way to exotic locales in Asia, especially Japan and China. At the war’s conclusion he returned to Brisbane and a Bachelor of Arts degree at the University of Queensland. It was here that Hugh began to explore the subject which was to become a defining dimension of his public and private life: a fascination with China and its place in the world.

When he was announced as the Queensland Rhodes Scholar for 1949, it gave him the opportunity to undertake Chinese language training at Oxford University, where he studied with some of the most eminent names in the field. He graduated with first-class honours in Chinese in 1952 with a thesis that translated some of the poems of the second century poet Cao Zhi. The translation was later published in both Taiwan and the People’s Republic.

Hugh joined the Department of External Affairs for a brief period in 1952-53 and was to return as a permanent officer in 1954. He then spent over 30 years in the foreign service, with postings in places as widely diverse as Japan, New York, Washington, New Delhi and Saigon.

During the 1960s Australia did not have diplomatic relations with the People’s Republic of China, so Hugh was frustrated in his efforts to put his expertise in Sinology to professional use. An opportunity came, however, in 1969 when he was appointed as Ambassador to the Republic of China on Taiwan. He served in Taipei until 1972 when, at very short notice, he was required to close the Australian mission following the Whitlam government’s recognition of the People’s Republic in December 1972. Afterwards, Hugh hoped that he might be sent as Ambassador to Beijing, but it was not to be. He was sent as head of mission to posts in South America and Africa.

Hugh finally realised his life’s ambition when appointed by the Fraser government as Ambassador to China in 1980. He served there until 1984 and became one of Australia’s great heads of mission to the Middle Kingdom. His language skills and commitment to Sinology as a field of study earned him considerable respect and made him widely popular in Beijing. It was with considerable pride that he often recounted that he was the only Australian Ambassador to China who had visited all of the then 30 provinces.

Hugh’s posting came at a time of revolutionary change in China. Deng Xiaoping had only recently returned to the Communist Party leadership in Beijing and began turning Chinese communist orthodoxy on its head. It was a period that required diplomats to employ the classical analytical skills of the Sinologist. Most importantly, they needed to decipher the opaque messages being conveyed through China’s official media as to the depth of the political and policy changes that were under way. Profound political signalling was invariably conveyed through
historical and literary metaphor. It was in this milieu that Hugh’s skills and craft came to the fore. His dispatches from Beijing were invariably penetrating, stimulating, elegant and, above all, an accurate analysis of China’s transformation.

As China became more important to Australia, Hugh was a man whose season had come. He dedicated a lifetime of classical scholarship to the analytical and diplomatic needs of his country at a time of far-reaching change in our region. He greatly admired China for its history, the richness of its culture and its increasingly impressive economic accomplishments. He was, however, very hard-headed about its importance to Australia and strongly disapproved of efforts to romanticise it. The relationship flourished, he held, because each country was of use and of some importance to the other. Economics was at the core, but, because more was needed to sustain a healthy relationship, he encouraged ties into other fields such as science, technology and culture. For the Australia-China relationship alone, the nation owes Hugh Dunn an immense debt.

Beijing was Hugh’s last foreign affairs posting and he retired from the foreign service to take up a visiting professorship at the School of Modern Asian Studies at Griffith University in 1985. In the same year, he was also made an officer of the general division of the Order of Australia. In the years that followed, he was as dedicated an unrenumerated public servant as he had been a professional diplomat. Griffith University was eventually to award him an honorary doctorate, but well before this it became an institutional base for an extraordinarily full and rich retirement, allowing him to engage his many interests.

He served on the Queensland China Council, helping in particular to promote Chinese language teaching in Queensland schools. He served several terms as President of the Queensland branch of the Australian Institute of International Affairs. He returned to his old school, Brisbane Boys College, on regular occasions and, when time permitted, pursued his passions for golf, trout fishing, reading and conversation.

Perhaps one of his greatest legacies from this time was his editorship of the Australians in Asia monograph series, published by Griffith University’s Centre for the Study of Australia-Asia Relations. Hugh’s own memoir, The Shaping of a Sinologue of Sorts, began the series with a very personal and slightly whimsical account of his very active life. Hugh was then responsible for bringing 21 additional monographs to publication. The series stands as one of Hugh’s most enduring legacies, providing a permanent record of Australia’s changing relations with Asia after the Second World War.

Hugh was a wise, witty, generous, humorous, considerate and charming companion to his very wide circle of friends. A man of conservative tastes, he was a professional diplomat of the old school, serving governments of both political persuasions with equal dedication. His wife, Marney, shared many of his life’s adventures, providing marvellous support in his diplomatic role and becoming an equally devoted servant of Australian diplomacy. They had an extraordinary partnership which endured until Hugh’s recent death.

Hugh Dunn died in Brisbane on 5 November after a long illness. It was a mark of the esteem and affection in which he was held in the community that his funeral in Brisbane was attended by not only his family but a very wide circle of friends and colleagues connected with his many life pursuits. He had a very rich and active life and will be greatly missed by family and friends alike. The nation should remember him as a
wise and devoted servant of Australian diplomacy and a leader in Australia’s engagement with Asia, especially China.

Mr John Patrick Ducker

Senator STEPHENS (New South Wales) (7.29 pm)—Tonight I wish to express my sincere condolences and those of the federal parliamentary Labor Party to the family of John Ducker AO, a truly great figure in the Labor movement in New South Wales who passed away last Friday morning at the age of 73. His was an active, generous and dedicated life as a family man, a union stalwart, a man of great faith and compassion, and a great servant of Australian people.

John Ducker was 18 when he arrived from Yorkshire in England in 1950 with his family, a beneficiary of the postwar immigration scheme launched by the Chifley Labor government. His first job was in an ironworks—a tough job in a new country—where, within three years, he was elected as a union organiser with the Federated Ironworkers Association. In 1961, his skills and talents saw him appointed as an organiser with the Labor Council of New South Wales, where his career blossomed, and he went on in 1967 to become first the assistant secretary and then the secretary of the New South Wales Labor Council, working closely with his friend and colleague Barry Unsworth. He also served as vice-president of the Australian Council of Trade Unions.

John Ducker’s leadership of the trade union movement produced an era of stability with a minimum of industrial disputes. He was renowned for his skill in negotiating solutions and compromise in what were regarded as intractable negotiations. John was smart. He was an accomplished debater and a master negotiator who provided leadership to the trade union movement. He brought a new level of integrity and professionalism to industrial relations practitioners on both sides of the table. He recognised and nurtured talent—Bob Carr, Paul Keating, Graham Richardson and many others come to mind. He was mentor to a young Bob Carr, employing him as the education officer at the Labor Council. He took great pride in the achievements of the Wran, Keating and Carr Labor governments, because John was also a proud and active member of the Australian Labor Party.

He joined the Gladesville Ryde Branch in 1951, and later, following the death of his father in 1953, converted to Catholicism. He was elected as junior vice-president of the New South Wales branch in 1966—a position he held until 1970, when he became president, at a time when the party was in the political doldrums. His legacy to the party in that role was a political organisation that had been successfully restructured, laying the foundation for a long period of electoral success at both federal and state levels.

In chairing the New South Wales Australian Labor Party annual state conference—a body of almost 1,000 delegates—he was renowned for his strategic sense, his shrewd wit and his wonderful Yorkshire accent, which he used to great effect. As president of the New South Wales branch, he was instrumental in the success in New South Wales of Labor’s 1972 ‘It’s time’ campaign and the election of the Whitlam government.

John Ducker entered the New South Wales Legislative Council in 1972 as a member of the Labor opposition following the resignation of Reg Downing. Over the next few months he applied his skills to garner support for the then Legislative Council member Neville Wran, enabling him to move to the Legislative Assembly and then to be elected as Labor’s parliamentary leader. We are all indebted to John’s efforts, because the ultimate result was the Wranslide victory and a Labor government that brought stability, en-
ergy and renewal to the state of New South Wales.

John Ducker’s life was one of service. Following his exemplary service in the New South Wales Legislative Council, he was appointed to the New South Wales Public Service Board, including serving a term as its chairman. He resigned this position when the Greiner government was elected in 1988. In 1979, he was admitted to the Order of Australia. He was also a recipient of the prestigious award of papal knight from Pope John Paul II in recognition of his service to the church and the community.

Speaking in the New South Wales Legislative Council on Tuesday evening, his political friends and opponents alike acknowledged John Ducker as man of great talent, compassion and sincerity. New South Wales Special Minister of State John Della Bosca observed:

He was a quick-witted debater, a master of persuasion, a clever political thinker, a splendid negotiator and a skilled chairman ... he was a decent human being.

... ... ...

Today many people in industry, commerce and the labour movement owe an immeasurable debt to John Ducker.

How ironic that here in this place we would be debating some of the most profound industrial relations changes in living memory. John Ducker remained intensely interested in this legislation and the Howard government’s draconian proposals and continued to offer his advice to John Robertson and Unions New South Wales about its impacts until the last few weeks of his life.

He was affectionately, and at times quite reverently, called ‘Bruvver Ducker’—a take on his wonderful accent. He was both blessed and challenged to live in interesting times, fighting hard against those influences that threatened our way of life. Michael Gal-
42 years of marriage, and had two sons, Paul and Anthony, of whom they were immensely proud.

John Ducker’s funeral and requiem mass will be held at the Sacred Heart Catholic Church in Mona Vale on Friday at noon. It will be a celebration of his full life and the contribution of a great Australian to a country that embraced him. He will be sadly missed by his family and his many friends. May he rest in peace.

Mr Robert Jovicic

Senator BARTLETT (Queensland) (7.38 pm)—In speaking on a report a few minutes ago I highlighted how crucial the issues of due process, natural justice, procedural fairness and the rule of law are. They are important, not because they are nice soundings concepts or nice theories, but because they are perhaps the most fundamental protection against innocent people suffering great injustices. That is why, when we are looking at the current debate around the anti-terrorism legislation, so many people in our community, including the Democrats, are very concerned about the potential of that legislation to remove some of those basic issues of the rule of law. It is not by accident that they are at the foundation of our democracy. They have been built up over many centuries, indeed, in some respects, back to the Magna Carta in the 13th century.

I had an ironic experience a few weeks ago in Parliament House. I was taking a number of people who were refugees who had been imprisoned on Nauru by this government, for close to four years for some of them, on a brief tour. Through all of that process, not at any stage were they charged with any offence—because they had not committed any—let alone had a trial. At the end of that process they were found to have been refugees all along and allowed into the country for which they are very grateful and have expressed their gratefulness. During that brief tour around Parliament House there was the irony of the guide explaining a few of the features of this marvellous building that our parliament is housed in. The guide pointed out the copy of the Magna Carta that we have in the public area here in Parliament House. It is one of only three or four in the world. It is a very ancient and very important historical relic. Explaining what the Magna Carta was, the guide said that it was a document that is at the foundation of Australia’s democracy and legal processes and guarantees that you cannot be detained without trial and without the judgment of your peers. To tell that fact to a group of people who had been detained for up to four years by this very government without charge or trial was irony in the extreme, I might say. But it shows the importance of those basic issues of due process.

I point to another example that has got some coverage in recent times, and that is the terrible situation faced by long-term Australian resident, Mr Jovicic, who had lived in Australia since he was two years old. He was born, as I understand it, in France of parents of Serbian origin—or probably Yugoslavian origin at that stage. He ran afoul of the character provisions of our Migration Act and, under a decision made by the previous minister, was deported to Serbia where he had never been, had no knowledge of the language and no connection with the country at all. In most people’s fair judgment that would be considered an extreme penalty. Whilst Mr Jovicic had been found guilty of drug related crimes and other offences under Australian law, he had been charged, tried and had served his time for those offences. I believe that it is a grossly disproportionate punishment for a person in that circumstance to be sentenced, in effect, to what is permanent exile. That is what is often done to people in this circumstance. I am not saying that
people should never have their visas cancelled on character provisions, I am saying that the judgment about cancelling visas on character provisions should be made in accordance with all of the relevant facts, including whether or not it is a fair or proportionate action.

In this situation, and many other cases that I am personally aware of, a person is, in effect, being sentenced to life long exile. It is exile from their families, in some cases from their children, to a country where they have no language, no connection and no history, other than with their ancestors. The exile can be permanent because these people are prohibited from being able to re-enter the country without the express permission of the minister. I believe exile of that sort is extreme punishment that should not be undertaken in those circumstances unless there is a clear risk to the community here in Australia. That has not applied on many of the occasions when this power has been used. Because of the Jovicic case getting such publicity, and because of a number of other similarly unjust cases—or that appear unjust at least on the face of it—the Ombudsman is examining this area. I believe it will be another area that will throw up a large number of cases that demonstrate what I believe is extreme injustice on the part of the immigration department and, in some cases, the relevant minister.

Because of this case getting such publicity, I had cause to revisit the passage of the recent legislation that allowed this to happen. It was almost seven years to the day, 25 November 1998, when this Senate chamber, to its shame, passed the Migration Legislation Amendment (Strengthening of Provisions relating to Character and Conduct) Bill 1998. It was one of those, unfortunately, frequent occasions when the Labor Party caved in to political pressure from the coalition and supported that legislation, despite the misgivings of many of their senators that were expressed at the time, including quite eloquently by former senator Barney Cooney.

I know it is always dangerous to quote yourself, but I made some comments at the time, and the Democrats raised concerns, about what it would mean for the culture that this would promote in the immigration area. We specifically talked about the momentum towards a more negative culture in the migration area as a result of laws like this that gave the minister more power and more discretion. They removed the ability of merits review of decisions by the minister if they were made personally by the minister, and thus allowed decisions like this one that could be driven and affected too much by politics and not enough by proper lawful consideration. They were the concerns that we expressed at the time.

As I often say in this chamber, it is important to remember that, when we pass legislation, it is not just a mechanism of having an intellectual debate; it is passing laws that can affect people. The terrible plight that Mr Jovicic is in now—and well over 100 people in various parts of the world—is a direct consequence of the decision of the Senate to pass that piece of legislation over seven years ago. The vote for that law seven years ago has directly caused the, I believe, seriously unjust suffering of Mr Jovicic and his wider family.

Of course, it is a lot harder in these circumstances because you are in a position where you are seen to be publicly defending people who are convicted of crimes, and nobody wants to be seen to be defending drug addicts or people who have committed violent crimes to feed a drug habit or those sorts of things. But it is certainly not a matter of defending their actions; it is a matter of defending the principle. The reason that we defend that principle of due process and
proper lawful consideration of decisions rather than political decisions being made by politicians is that, once it is allowed to happen to some people, it can happen to others—and it can happen to any of us.

I draw attention to the case I mentioned before; that is, the ruling in the Full Federal Court in S214 versus the Minister for Immigration and Multicultural and Indigenous Affairs in 2004. It was a successful ruling, thankfully, where a person was found to have been denied procedural fairness by the Administrative Appeals Tribunal—although I might say that, originally, that decision was found to be lawful by the first appeal to the single Federal Court judge—where a person had allegations raised against them that they were not able to defend themselves against. The same thing can happen and does happen under section 501—the character provisions—of the Migration Act, where people are automatically deemed to be of bad character because of their record, and the onus of proof is reversed and they have to prove otherwise, or if an assessment is made by ASIO that they should be excluded on security grounds they may not have any opportunity to defend themselves against the allegations and they may not even know what the allegations are, as occurred in that Federal Court case and the AAT case I referred to.

That is a principle that can apply to any of us. It can apply now under the ASIO laws. It can apply even more under some of the laws that the Senate has before it and will consider shortly where anonymous allegations can be made against any member of the community and they can have legal actions taken against them as a consequence, despite not even knowing what those allegations are, let alone having an opportunity to defend them. That is why we should never accept principles such as those that are embodied in the legislation— *(Time expired)*

**Young Workers Legal Service**  
**Working Women's Centre of South Australia**

*Senator McEWEN (South Australia)*  
*(7.48 pm)*—Tonight I wish to bring the Senate’s attention to two important publications that came to my attention during the last non-sitting period. I refer to the 2004-05 annual reports of two fine South Australian organisations: the Young Workers Legal Service and the Working Women’s Centre of South Australia. During a time when industrial relations is at the forefront of public debate, the work of the Young Workers Legal Service and the Working Women’s Centre remind us just how much is at stake for two of the most vulnerable sectors of Australia’s work force—young people and women—because of the government’s extreme, ideologically driven attacks on the working conditions of all Australians. Both the Young Workers Legal Service and the Working Women’s Centre advocate for and seek retribution on behalf of their clients who have been wrongly treated by employers. The work these two organisations do—and do so well—consistently highlights the need for accessible, enforceable laws to prevent exploitation of workers by employers.

The South Australian Young Workers Legal Service was set up by the South Australian union movement in 2003 to assist workers under 30 years of age who were not members of trade unions to pursue workplace grievances such as unfair dismissal, underpayment of wages, equal opportunity and discrimination matters, traineeship and apprenticeship disputes, workers compensation and occupational health and safety matters. The service provided is free for clients and funding to enable the service to operate is provided by the South Australian government and the South Australian trade union movement.
That is the same trade union movement that is constantly vilified by those opposite who like to paint trade unionists as dinosaurs of the Dark Ages. Perhaps those opposite might like to look in the mirror sometime and see where the real dinosaurs are. The South Australian trade union movement is modern, forward-looking and practical. It saw that young people needed a cheap, confidential, accessible place to get advice about what had happened to them at work, and so the Young Workers Legal Service was born.

As well as assisting young people with their individual problems, the service also provides a resource centre with copies of awards, acts and video and DVD materials. It also provides speakers for schools to provide information about the world of work and has an informative monthly radio segment. The Young Workers Legal Service employs one or two experienced industrial practitioners, but the bulk of its casework is handled by volunteer law students from both Flinders and Adelaide universities. The support of the law schools of both those South Australian universities for the service is acknowledged, and it is appropriate that honourable senators also acknowledge the goodwill and hard work of the many young law students who willingly give their own time and expertise because, basically, they want to make the world a better place for other young people.

From the annual report of the Young Workers Legal Service I am able to advise that of the 158 young people for whom the service undertook some action in the 12-month reporting period, 30 per cent were assisted with unfair dismissal matters. Almost all of these were employed in workplaces of fewer than 100 employees and when this government’s extreme legislation is shoved through the Senate those young people who need help will be denied help because the government thinks it is just fine for employers to be able to sack young people for no reason at all.

Returning to the statistics from the Young Workers Legal Service report, 27 per cent of clients were assisted with underpayment of wages claims and 15 per cent were assisted with equal opportunity matters. Fifty-five per cent of the service’s clients were female and 50 per cent of the young people assisted worked in either hospitality or retail. As either a measure of the success of the Service or perhaps a reminder of how vulnerable young people are to exploitation, the total moneys recovered for clients of the service from various actions in tribunals and by conciliation was $147,000. The Young Workers Legal Service notes in its 2004-05 annual report that it expects a third of its work to disappear in 2006 when the right of employees working for employers with 100 or fewer employees to bring an unfair dismissal claim is removed. No doubt that brings great joy to those opposite. I can tell you it brings despair to Labor senators, who believe in a fair go for our young people at work.

While many people have done much to establish the South Australian Young Workers Legal Service, and to ensure its success, I would draw senators’ attention to the efforts of its initial coordinator, Emma Thornton; her successor, Olivia Guarna; the Secretary of SA Unions, Janet Giles; and the executive of SA Unions, who collectively saw the need, had the vision and brought it to fruition.

The Working Women’s Centre of South Australia has a somewhat longer history than the Young Workers Legal Service. In 2004-05, it celebrated 26 years of service to South Australian women. It too offers assistance with individual grievances such as unfair dismissal and with equal opportunity matters, along with advice about Australian workplace agreements, underpayment of
wages, workers compensation and health and safety matters. During the reporting period, the Working Women’s Centre secured more than $270,000 in entitlements and compensation for women in South Australia who settled their matters with the assistance of the centre. Some of this compensation was for women who asked the centre to assist them take action against employers who had unfairly dismissed them. The annual report cites a number of case studies.

As those opposite are soon going to legislate away the right of women working for employers with fewer than 100 employees to take unfair dismissal action, it is salient to remind all senators of what happens out there in the real world where not all employers play fair. This is the story of Serena, a client of the Working Women’s Centre. Serena had been working in a clerical capacity for four years. She was full-time permanent employee and was of mature age. She worked in the construction industry in a male dominated workplace and she assisted a number of the supervisors and managers with their administration.

With no notice, Serena was dismissed. She was simply called into the office and told that her performance was not up to scratch and that they were going to have to let her go. No-one had told her before this happened that there was an issue with her performance, and it deeply affected her confidence and self-esteem. Serena lodged an unfair dismissal claim and was awarded compensation. Having the opportunity to file an unfair dismissal application meant that Serena was able to move on from this experience. The financial compensation also assisted her through this difficult patch.

The Working Women’s Centre also has a very important role in enhancing women’s participation and contribution in workplaces. It is worth noting some of the innovative work being done by the centre, much of which goes unrecognised. The centre has always been a fierce advocate for the rights of outworkers, and was successful in having new protections for outworkers included in the new South Australian Fair Work Act. The fate of those provisions now hangs in the balance, given that the federal government’s dream of taking over the states’ industrial systems is about to become a reality.

Currently, the centre is participating in a project to develop health and safety guidelines for workers in hairdressing salons. The project is addressing such matters as working with hazardous substances—and there are numerous hazardous substances in hairdressing salons. It is also assisting in developing guidelines for dealing with workplace bullying in hairdressing salons. Another important project the centre has been involved in is a joint research project with the University of South Australia into the impact of domestic violence on women workers. As the annual report notes, women who are subject to domestic violence often go off to work each day and try to conduct a normal working life while subject to unimaginable stress from violence at home.

The Working Women’s Centre is funded by both the state and federal governments and receives some funding from the South Australian union movement. The centre raises additional funding by conducting training courses. The centre’s expertise in addressing workplace bullying was recognised in November 2004 when a representative presented a paper on the issue at WorkCongress6 held in Rome. I would like to make mention of my admiration and respect for the hardworking staff of the Working Women’s Centre of South Australia under the leadership of its current director, Sandra Dann.
Both the Working Women’s Centre and the Young Workers Legal Service manage to provide exemplary services to the people of South Australia and they do it with not much funding but with an extraordinary amount of passion and perseverance. I am very pleased to bring the work of the two organisations to the attention of honourable senators.

Senate adjourned at 7.58 pm

Documents

Tabling

The following government documents were tabled:
Fisheries Research and Development Corporation—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]
Banking Act—Banking (Foreign Exchange) Regulations 1959—Direction relating to foreign currency transactions and to Zimbabwe; and variations of exemptions—Amendment to annexes [F2005L03697].
Customs Act—
Customs By-laws Nos—
0540005 [F2005L03751].
0540006 [F2005L03748].
Tariff Concession Revocation Instrument—
24/2005 [F2005L03732].
26/2005 [F2005L03734].
27/2005 [F2005L03735].
28/2005 [F2005L03737].
Financial Management and Accountability Act—Adjustments of Appropriations on Change of Agency Functions—Directions Nos—
Food Standards Australia New Zealand Act—Declaration No. PB 30 of 2005 [F2005L03723].
Determination No. PB 32 of 2005 [F2005L03727].
National Health Act—
Declaration No. PB 30 of 2005 [F2005L03742].
Determination No. PB 32 of 2005 [F2005L03742].

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Agriculture, Fisheries and Forestry: Staff
(Question No. 656)

Senator Chris Evans asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 4 May 2005:

For each of the financial years 2000-01 to 2004-05 to date, can the following information be provided for the department and/or its agencies:

1. What were the base and top level salaries of Australian Public Service (APS) level 1 to 6 officers and equivalent staff employed.
2. What were the base and top level salaries of APS Executive level and Senior Executive Service officers and equivalent staff employed.
3. Are APS officers eligible for performance or other bonuses; if so: (a) to what levels are these bonuses applied; (b) are these applied on an annual basis; (c) what conditions are placed on the qualification for these bonuses; and (d) how many bonuses were paid at each level, and what was their dollar value for the periods specified above.
4. (a) How many senior officers have been supplied with motor vehicles; and (b) what has been the cost to date.
5. (a) How many senior officers have been supplied with mobile phones; and (b) what has been the cost to date.
6. How many management retreats or training programs have staff attended.
7. How many management retreats or training programs have been held off-site.
8. In the case of each off-site management retreat or training program: (a) where was the event held; and (b) what was the cost of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.
9. How many official domestic trips have been undertaken by staff and what was the cost of this domestic travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.
10. How many official overseas trips have been undertaken by staff and what was the cost of this travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.
11. (a) What was the total cost of air charters used; and (b) on how many occasions was aircraft chartered, and in each case, what was the name of the charter company that provided the service and the respective costs.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

1. Senator Abetz, representing Mr Andrews to respond on behalf of all Ministers.
2. Senator Abetz, representing Mr Andrews to respond on behalf of all Ministers.
3. Senator Abetz, representing Mr Andrews to respond on behalf of all Ministers.
4. Department of Agriculture, Fisheries and Forestry (DAFF)
### Financial Year Number of Motor Vehicles Provided to SES Officers Cost

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of Motor Vehicles Provided to Officers</th>
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<td>2001/02</td>
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<td>2003/04</td>
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<td>2004/05</td>
<td>65</td>
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Note: The above data has been obtained from FBT reports supplied by the department’s corporate finance systems.

### Other Portfolio Agencies

#### Australian Wine and Brandy Corporation

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<tr>
<th>Financial Year</th>
<th>Number of Motor Vehicles Provided to Officers</th>
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#### Australian Fisheries Management Authority

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#### Australian Pesticides and Veterinary Medicines Authority - Nil

#### Wheat Export Authority - Nil

#### Cotton Research and Development Corporation

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<td>2000/01</td>
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#### Fisheries Research and Development Corporation - Nil

#### Forest and Wood Products Research and Development Corporation - Nil

#### Grains Research and Development Corporation - Nil

#### Grape and Wine Research and Development Corporation (GWRDC)

GWRDC have advised that the requested information is not readily available and would require a significant diversion of resources to compile.

#### Land and Water Australia - Nil

#### Rural Industries Research and Development Corporation (RIRDC)
### QUESTIONS ON NOTICE

#### Financial Year Number of Motor Vehicles Provided to Officers Cost

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of Officers with mobile phones</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000/01</td>
<td>4</td>
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Sugar Research and Development Corporation

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<td>2001/02</td>
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<td>2004/05</td>
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<td>$7,210.26</td>
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Note: The above data represents the change-over price for vehicles, as SRDC purchases vehicles.

(5) Department of Agriculture, Fisheries and Forestry

Information specifying how many senior officers have been supplied with mobile phones and their costs for the financial years 2000-01 to 2004-05 to date is not readily available and would require a significant diversion of resources to compile. The Department’s policy for the provision and management of mobile telephones is set out in DAFF Chief Executive Instruction 11 (CEI). The CEI defines the overarching principles, policy and business rules that apply to the provision and usage of departmental communications and information technology equipment and services.

Other Portfolio Agencies

Australian Wine and Brandy Corporation

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<tr>
<th>Financial Year</th>
<th>Number of Officers with mobile phones</th>
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<tr>
<td>2000/01</td>
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Australian Fisheries Management Authority

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<tr>
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Australian Pesticides and Veterinary Medicines Authority

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**Wheat Export Authority**

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<tr>
<td>2001/02</td>
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**Cotton Research and Development Corporation**

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**Fisheries Research and Development Corporation**

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**Forest and Wood Products Research and Development Corporation**

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of Officers with mobile phones</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000/01</td>
<td>2</td>
<td>$2,300</td>
</tr>
<tr>
<td>2001/02</td>
<td>4</td>
<td>$2,900</td>
</tr>
<tr>
<td>2002/03</td>
<td>3</td>
<td>$2,000</td>
</tr>
<tr>
<td>2003/04</td>
<td>3</td>
<td>$1,800</td>
</tr>
<tr>
<td>2004/05</td>
<td>3</td>
<td>$2,900</td>
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</table>

**Grains Research and Development Corporation**

<table>
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<tr>
<th>Financial Year</th>
<th>Number of Officers with mobile phones</th>
<th>Cost</th>
</tr>
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<tbody>
<tr>
<td>2000/01</td>
<td>11</td>
<td>$13,241.57 (ex GST)</td>
</tr>
<tr>
<td>2001/02</td>
<td>13</td>
<td>$9,003.37 (ex GST)</td>
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<td>2002/03</td>
<td>14</td>
<td>$7,320.96 (ex GST)</td>
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<tr>
<td>2003/04</td>
<td>13</td>
<td>$6,554.15 (ex GST)</td>
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<td>2004/05</td>
<td>8</td>
<td>$3,454.77 (ex GST)</td>
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</table>

**QUESTIONS ON NOTICE**
Grape and Wine Research and Development Corporation

Information specifying how many senior officers have been supplied with mobile phones and their costs for the financial years 2000-01 to 2004-05 to date is not readily available and would require a significant diversion of resources to compile.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of Officers with mobile phones</th>
<th>Cost</th>
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<tbody>
<tr>
<td>2000/01</td>
<td>6</td>
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<tr>
<td>2001/02</td>
<td>6</td>
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<td>2002/03</td>
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<td>2003/04</td>
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<tr>
<td>2004/05</td>
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</table>

*Information specifying how many senior officers have been supplied with mobile phones and their costs for the financial years 2000-01 to 2003-04 is not readily available and would require a significant diversion of resources to compile.

Land and Water Australia*

Rural Industries Research and Development Corporation

Information specifying how many senior officers have been supplied with mobile phones and their costs for the financial years 2000-01 to 2004-05 to date is not readily available and would require a significant diversion of resources to compile.

Sugar Research and Development Corporation

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Number of Officers with mobile phones</th>
<th>Cost</th>
</tr>
</thead>
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<tr>
<td>2000/01</td>
<td>6</td>
<td>$3,058.56</td>
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<tr>
<td>2001/02</td>
<td>5</td>
<td>$2,145.92</td>
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<td>2002/03</td>
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<td>$2,523.93</td>
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<td>2003/04</td>
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<td>2004/05</td>
<td>6</td>
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(6) to (10) Senator Abetz, representing Mr Andrews, will respond to these parts.

Department of Agriculture, Fisheries and Forestry

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<thead>
<tr>
<th>Financial Year</th>
<th>Total Cost of Air Charter</th>
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<tr>
<td>2000/01</td>
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<tr>
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<td>2002/03</td>
<td>$270,644.90</td>
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<td>2003/04</td>
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DOMESTIC AIR CHARTER 2001/2002

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<th>Value</th>
<th>Number of Charters</th>
<th>Year</th>
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<td>$3,447.27</td>
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<td>Cape York Airlines Pty Ltd</td>
<td>$8,787.09</td>
<td>1</td>
<td>2001/2002</td>
</tr>
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<td>Jayrow Helicopters Pty Ltd</td>
<td>$16,818.18</td>
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<td>2001/2002</td>
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<td>Narromine Aviation</td>
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<td>2001/2002</td>
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<tr>
<td>Skytrans Airlines</td>
<td>$2,181.00</td>
<td>1</td>
<td>2001/2002</td>
</tr>
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<td>South West Air Service Pty Ltd</td>
<td>$2,205.56</td>
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<td>2001/2002</td>
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</table>

QUESTIONS ON NOTICE
## QUESTIONS ON NOTICE

### Name | Value | Number of Charters | Year
---|---|---|---
Brindabella Airlines | $19,956.00 | 6 | 2001/2002
Corporate Air | $7,900.00 | 1 | 2001/2002
Pays Air Service Pty Ltd | $12,505.05 | 1 | 2001/2002
Sharon Bell | $442.35 | 1 | 2001/2002
**Total** | **$96,517.58** | | |

### DOMESTIC AIR CHARTER 2002/2003

<table>
<thead>
<tr>
<th>Name</th>
<th>Value</th>
<th>Number of Charters</th>
<th>Year</th>
</tr>
</thead>
</table>
Aerotropics Air Service | $523.23 | 1 | 2002/2003 |
Alligator Airways | $0 | *2 | 2002/2003 |
Anindilyakwa Air Pty Ltd | $1,941.25 | 1 | 2002/2003 |
Gemair Pty Ltd | $4,763.64 | 1 | 2002/2003 |
Northern Air Services Pty Ltd | $8,680.00 | 4 | 2002/2003 |
Skytrans Airlines | $59,301.23 | 6 | 2002/2003 |
Agriculture WA | $3,693.18 | 1 | 2002/2003 |
Anindilyakwa Air Pty Ltd | $2,086.36 | 1 | 2002/2003 |
Barrier Aviation Pty Ltd | $1,290.00 | 1 | 2002/2003 |
Brindabella Airlines | $78,205.45 | 17 | 2002/2003 |
Cape York Airlines Pty Ltd | $8,318.18 | 1 | 2002/2003 |
Hempels Aviation Pty Ltd | $500.00 | 1 | 2002/2003 |
Independent Aviation Pty Ltd | $3,566.36 | 1 | 2002/2003 |
Laynhapuy Aviation Pty Ltd | $5,580.00 | 1 | 2002/2003 |
Northern Air Charter | $21,381.86 | 30 | 2002/2003 |
Orange Aviation Pty Ltd | $636.36 | 1 | 2002/2003 |
Planet Aviation | $2,640.00 | 1 | 2002/2003 |
Skytrans Airlines | $5,019.00 | 4 | 2002/2003 |
Sudholz Air Charter Pty Ltd | $4,371.95 | 2 | 2002/2003 |
Aerotropics Air Service | $4,320.50 | 1 | 2002/2003 |
BB Helicopters & Fitzroy Helicopters | $2,236.00 | 1 | 2002/2003 |
Jayrow Helicopters Pty Ltd | $51,644.35 | 5 | 2002/2003 |
**Total** | **$270,644.90** | | |

* The service was cancelled.

### DOMESTIC AIR CHARTER 2003/2004

<table>
<thead>
<tr>
<th>Name</th>
<th>Value</th>
<th>Number of Charters</th>
<th>Year</th>
</tr>
</thead>
</table>
Arkaroola Wilderness Sanctuary | $4,221.83 | 5 | 2003/2004 |
Brindabella Airlines | $16,615.45 | 1 | 2003/2004 |
Cape York Airlines Pty Ltd | $39,974.54 | 3 | 2003/2004 |
Corporate Air | $13,581.82 | 1 | 2003/2004 |
Direct Air Charter | $2,406.00 | 1 | 2003/2004 |
Gulf Line Aviation | $2,860.91 | 1 | 2003/2004 |
Jayrow Helicopters Pty Ltd | $20,762.50 | 1 | 2003/2004 |
Narromine Aviation | $14,328.46 | 4 | 2003/2004 |
Skytrans Airlines | $3,707.09 | 3 | 2003/2004 |
South West Air Service Pty Ltd | $39,705.64 | 9 | 2003/2004 |

### QUESTIONS ON NOTICE
**QUESTIONS ON NOTICE**

### DOMESTIC AIR CHARTER 2003/2004

<table>
<thead>
<tr>
<th>Name</th>
<th>Value</th>
<th>Number of Charters</th>
<th>Year</th>
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</thead>
<tbody>
<tr>
<td>St George Air Farmers P/L T/A Jones Air</td>
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<td>Brindabella Airlines</td>
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<td>Broome Aviation</td>
<td>$1,972.73</td>
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<td>Cape Air Transport</td>
<td>$11,746.37</td>
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<td>Corporate Air</td>
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<tr>
<td>Northern Air Charter</td>
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<tr>
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<td>Buzz Aviation</td>
<td>$36,906.00</td>
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<td>2003/2004</td>
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<td>Gyrovision</td>
<td>$20,330.10</td>
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<td>2003/2004</td>
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<td>$14,867.00</td>
<td>2</td>
<td>2003/2004</td>
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<td>Jayrow Helicopters Pty Ltd</td>
<td>$19,828.50</td>
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<td>MI Helicopters</td>
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<td>$57,705.26</td>
<td>4</td>
<td>2003/2004</td>
</tr>
<tr>
<td>Reef Helicopters Pty Ltd</td>
<td>$2,636.36</td>
<td>1</td>
<td>2003/2004</td>
</tr>
<tr>
<td>Field Air (Operations) P/L</td>
<td>$103,935.75</td>
<td>7</td>
<td>2003/2004</td>
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<td>Keyland Aviation</td>
<td>$103,935.75</td>
<td>7</td>
<td>2003/2004</td>
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<tr>
<td>Rebel Ag Pty Ltd</td>
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<td>2003/2004</td>
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<tr>
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<td>$57,705.26</td>
<td>4</td>
<td>2003/2004</td>
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<td>Thompson Aviation</td>
<td>$34,340.00</td>
<td>4</td>
<td>2003/2004</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$999,487.49</strong></td>
<td><strong>17</strong></td>
<td><strong>2003/2004</strong></td>
</tr>
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</table>

### DOMESTIC AIR CHARTER 2004/2005

<table>
<thead>
<tr>
<th>Name</th>
<th>Value</th>
<th>Number of Charters</th>
<th>Year</th>
</tr>
</thead>
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<tr>
<td>Air Bush Charter</td>
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<tr>
<td>Broome Air Services</td>
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<td>2004/2005</td>
</tr>
<tr>
<td>Cape York Airlines Pty Ltd</td>
<td>$52,909.09</td>
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<td>2004/2005</td>
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<td>Yolnu Air</td>
<td>$372.73</td>
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<td>2004/2005</td>
</tr>
<tr>
<td>Gordon L Robertson</td>
<td>$67,507.10</td>
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<td>2004/2005</td>
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<td>Griffith Aero Club</td>
<td>$51,973.93</td>
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<td>2004/2005</td>
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<td>Hardy Aviation (NT) P/L</td>
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<td>2004/2005</td>
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<tr>
<td>JR &amp; LD Bryant Holdings</td>
<td>$16,030.35</td>
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<td>Mon Aero Pty Ltd</td>
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<td>2004/2005</td>
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<td>2004/2005</td>
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<td>Corporate Air</td>
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<td><strong>17</strong></td>
<td><strong>2004/2005</strong></td>
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</table>
**QUESTIONS ON NOTICE**

### Name

<table>
<thead>
<tr>
<th>Name</th>
<th>Value</th>
<th>Number of Charters</th>
<th>Year</th>
</tr>
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<tbody>
<tr>
<td>Gemair Pty Ltd</td>
<td>$8,627.52</td>
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<td>2004/2005</td>
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<td>Hempels Aviation Pty Ltd</td>
<td>$1,318.18</td>
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<td>2004/2005</td>
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<td>King Leopold Air</td>
<td>$809.09</td>
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<tr>
<td>Northern Air Charter</td>
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<td>2004/2005</td>
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<td>BB Helicopters &amp; Fitzroy Helicopters</td>
<td>$1,620.00</td>
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<td>Central (QLD) Aviation Pty Ltd</td>
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<td>2004/2005</td>
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<td>Commercial Helicopters Pty Ltd</td>
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<td>Thompson Aviation</td>
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<td>2004/2005</td>
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<td><strong>Total</strong></td>
<td><strong>$2,297,533.20</strong></td>
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**Other Portfolio Agencies**

**Australian Wine and Brandy Corporation**

<table>
<thead>
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<th>Name</th>
<th>Value</th>
<th>Number of Charters</th>
<th>Year</th>
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<td>Air Charter Australia</td>
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**Australian Fisheries Management Authority**

<table>
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<th>Value</th>
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<th>Year</th>
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### Australian Pesticides and Veterinary Medicines Authority

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<th>Value</th>
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<th>Year</th>
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<tr>
<td><strong>Total</strong></td>
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Wheat Export Authority - Nil

Cotton Research and Development Corporation

<table>
<thead>
<tr>
<th>Name</th>
<th>Value</th>
<th>Number of Charters</th>
<th>Year</th>
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<tbody>
<tr>
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<tr>
<td>Central Highlands Air Transport</td>
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Fisheries Research and Development Corporation - Nil

Forest and Wood Products Research and Development Corporation - Nil
Grains Research and Development Corporation

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Grape and Wine Research and Development Corporation

Information specifying how many domestic charters have been used and their costs for the financial years 2000-01 to 2004-05 to date is not readily available and would require a significant diversion of resources to compile.

Land and Water Australia

Information specifying how many domestic charters have been used and their costs for the financial years 2000-01 to 2004-05 to date is not readily available and would require a significant diversion of resources to compile.

Rural Industries Research and Development Corporation - Nil.

Sugar Research and Development Corporation - Nil.

**Agriculture, Fisheries and Forestry: Staff**

(Question No. 665)

Senator Chris Evans asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 4 May 2005:

For each of the financial years 2000-01 to 2004-05 to date, can the following information be provided for the department and/or its agencies:

1. What were the base and top level salaries of Australian Public Service (APS) level 1 to 6 officers and equivalent staff employed.
2. What were the base and top level salaries of APS Executive level and Senior Executive Service officers and equivalent staff employed.
3. Are APS officers eligible for performance or other bonuses; if so: (a) to what levels are these bonuses applied; (b) are these applied on an annual basis; (c) what conditions are placed on the qualification for these bonuses; and (d) how many bonuses were paid at each level, and what was their dollar value for the periods specified above.
4. (a) How many senior officers have been supplied with motor vehicles; and (b) what has been the cost to date.
5. (a) How many senior officers have been supplied with mobile phones; and (b) what has been the cost to date.
6. How many management retreats or training programs have staff attended.
7. How many management retreats or training programs have been held off-site.
8. In the case of each off-site management retreat or training program: (a) where was the event held; and (b) what was the cost of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.
(9) How many official domestic trips have been undertaken by staff and what was the cost of this domes-
tic travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(10) How many official overseas trips have been undertaken by staff and what was the cost of this travel, and in each case: (a) what was the destination; (b) what was the purpose of the travel; and (c) what was the cost of the travel, including a breakdown of: (i) accommodation, (ii) food, (iii) alcohol, (iv) transport, and (v) other costs incurred.

(11) (a) What was the total cost of air charters used; and (b) on how many occasions was aircraft char-
tered, and in each case, what was the name of the charter company that provided the service and the respective costs.

Senator Ian Macdonald—The answer to the honourable senator’s question is as follows:

(1) to (3) Senator Abetz, representing Mr Andrews to respond on behalf of all Ministers.

(4) to (5) See answer to Senate Question on Notice number 656.

(6) to (10) Senator Abetz, representing Mr Andrews to respond on behalf of all Ministers.

(11) See answer to Senate Question on Notice number 656.

Australian Federal Police: Manager International Network

(Question No. 1059)

Senator Ludwig asked the Minister for Justice and Customs, upon notice, on 4 August 2005

With reference to the matters that were referred to the Director of International and Operations:

(1) For each of the years 2001 to date: (a) how many matters were referred; and (b) to which countries did these matters relate.

(2) What action was taken on these matters?

(3) Of these matters, how many were referred to: (a) the Minister for Justice and Customs; and (b) the Attorney-General.

(4) Of those matters referred to the Minister for Justice and Customs and the Attorney-General, what action was taken?

(5) Was the Bali 9 case referred to: (a) the Director of International and Operations; (b) the Minister for Justice and Customs; or (c) the Attorney-General; if so, what action was taken in relation to that specific matter.

(6) (a) Can a copy be provided of the current mutual assistance manual used to cover informal police-to-police assistance rendered before charge; (b) when was this manual last revised; (c) are any revisions currently being undertaken; and (d) are any revisions planned.

(7) Are the mutual assistance procedures different in countries with the death penalty to those countries without the death penalty; if so, what is the difference; if not, why not.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) For the periods where data is held it is not in a format readily adaptable for the question and would consequently take an undue diversion of resources to prepare. On this basis it is not proposed to an-
swer this question.

(2) See answer to question 1.

(3) See answer to question 1.

(4) See answer to question 1.
(5) (a) The AFP Manager International Network (previously known as Director International Operations) was involved in the operational decisions relating to the provision of information to the Indonesian National Police (INP). As a result of operational discussions, authorisation was provided to convey information to the INP through the AFP’s International Network liaison officer based in Bali.

(b) The AFP’s first briefing to the Minister for Justice and Customs in relation to this police operation occurred directly after the 17 April 2005 arrest of the Australians in Bali. No member of the Australian government was briefed prior to this time. As a matter of policy the Minister is not advised of operational decisions prior to the resolution of the operation.

(c) The AFP’s first briefing to the Attorney General in relation to this police operation occurred directly after the 17 April 2005 arrest of the Australians in Bali. No member of the Australian government was briefed prior to this time. As a matter of policy the Attorney General is not advised of operational decisions prior to the resolution of the operation.

(6) (a) The AFP Practical Guide on International Police to Police Assistance in Death Penalty Charge Situations was formulated in 1993. This document was tabled on 24 May 2005 during the Senate Legal and Constitutional, Estimates hearings.

(b) To date no amendments have been made to The AFP Practical Guide on International Police to Police Assistance in Death Penalty Charge Situations.

(c) No.

(d) AFP Policies and guidelines are regularly reviewed to ensure they adhere to Government policies and international conventions.

(7) Mutual assistance is governed by the Mutual Assistance in Criminal Matters Act 1987. Under section 8 of the Act, where a foreign country requests assistance to investigate an offence which carries the death penalty, the Attorney-General or the Minister for Justice and Customs has a discretion to refuse to provide the assistance.

Where a foreign country requests assistance where a person has been charged with, or convicted of, an offence which carries the death penalty, the Attorney-General or the Minister for Justice and Customs must refuse to provide the assistance unless there are special circumstances. Special circumstances include where the evidence would assist the defence, or where the foreign country undertakes not to impose or carry out the death penalty.
(1) The AFP has not received a formal request from the International Criminal Tribunal for the former Yugoslavia (ICTY) for an investigation of Mr Dragan Vasiljkovic. The AFP has made enquiries with overseas authorities in relation to Mr Vasiljkovic. These inquiries are ongoing.

(2) See the answer to question one. The AFP has not commenced an investigation of Mr Vasiljkovic.

(3) See the answer to question two.

(4) See the answer to question two.

(5) See the answer to question two.