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For searching purposes use http://parlinfoweb.aph.gov.au

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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.

- **CANBERRA**: 103.9 FM
- **SYDNEY**: 630 AM
- **NEWCASTLE**: 1458 AM
- **GOSFORD**: 98.1 FM
- **BRISBANE**: 936 AM
- **GOLD COAST**: 95.7 FM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 747 AM
- **NORTHERN TASMANIA**: 92.5 FM
- **DARWIN**: 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—FOURTH PERIOD

Governor-General

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

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 Australian Greens—Senator Robert James Brown
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
Australian Greens Whip—Senator Rachel Siewert

Printed by authority of the Senate
## Members of the Senate

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</table>

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

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

Heads of Parliamentary Departments
Clerk of the Senate—H Evans
Clerk of the House of Representatives—I C Harris
Secretary, Department of Parliamentary Services—H R Penfold QC
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<tr>
<td>Prime Minister</td>
<td>The Hon. John Winston Howard MP</td>
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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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<tr>
<td>Minister for Defence and Leader of the Government in the Senate</td>
<td>Senator the Hon. Robert Murray Hill</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>The Hon. Alexander John Gosse Downer MP</td>
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<tr>
<td>Minister for Health and Ageing and Leader of the House</td>
<td>The Hon. Anthony John Abbott MP</td>
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<tr>
<td>Attorney-General</td>
<td>The Hon. Philip Maxwell Ruddock MP</td>
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<tr>
<td>Minister for Finance and Administration, Deputy Leader of the Government in the Senate and Vice-President of the Executive Council</td>
<td>Senator the Hon. Nicholas Hugh Minchin</td>
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<td>Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House</td>
<td>The Hon. Peter John McGauran MP</td>
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<td>Senator the Hon. Amanda Eloise Vanstone</td>
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<td>The Hon. Dr Brendan John Nelson MP</td>
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<td>Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues</td>
<td>Senator the Hon. Kay Christine Lesley Patterson</td>
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<tr>
<td>Minister for Industry, Tourism and Resources</td>
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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>
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<td>Senator the Hon. Helen Lloyd Coonan</td>
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<tr>
<td>Minister for the Environment and Heritage</td>
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(The above ministers constitute the cabinet)
HOWARD MINISTRY—continued

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<td>Minister for Justice and Customs and Manager of Government Business in the Senate</td>
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<td>Minister for Fisheries, Forestry and Conservation</td>
<td>Senator the Hon. Ian Douglas Macdonald</td>
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<tr>
<td>Minister for the Arts and Sport</td>
<td>Senator the Hon. Charles Roderick Kemp</td>
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<tr>
<td>Minister for Human Services</td>
<td>The Hon. Joseph Benedict Hockey MP</td>
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<tr>
<td>Minister for Citizenship and Multicultural Affairs</td>
<td>The Hon. John Kenneth Cobb MP</td>
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<tr>
<td>Minister for Revenue and Assistant Treasurer</td>
<td>The Hon. Malcolm Thomas Brough MP</td>
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<tr>
<td>Special Minister of State</td>
<td>Senator the Hon. Eric Abetz</td>
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<tr>
<td>Minister for Vocational and Technical Education and Minister Assisting the Prime Minister</td>
<td>The Hon. Gary Douglas Hardgrave MP</td>
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<td>The Hon. Julie Isabel Bishop MP</td>
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<td>Minister for Local Government, Territories and Roads</td>
<td>The Hon. James Eric Lloyd MP</td>
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<td>Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence</td>
<td>The Hon. De-Anne Margaret Kelly MP</td>
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<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>
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<td>Parliamentary Secretary (Foreign Affairs) and Parliamentary Secretary to the Minister for Immigration and Multicultural and Indigenous Affairs</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
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<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon. Christopher John Pearce MP</td>
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<td>Parliamentary Secretary to the Minister for the Environment and Heritage</td>
<td>The Hon. Gregory Andrew Hunt MP</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>The Hon. Patrick Francis Farmer MP</td>
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<tr>
<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)
SHADOW MINISTRY—continued

Shadow Minister for Consumer Affairs and
Shadow Minister for Population Health and
Health Regulation
Laurie Donald Thomas Ferguson MP

Shadow Minister for Agriculture and Fisheries
Shadow Assistant Treasurer, Shadow Minister for
Revenue and Shadow Minister for Small
Business and Competition
Gavan Michael O’Connor MP
Joel Andrew Fitzgibbon MP

Shadow Minister for Transport
Senator Kerry Williams Kelso O’Brien

Shadow Minister for Sport and Recreation
Senator Kate Alexandra Lundy

Shadow Minister for Homeland Security and
Shadow Minister for Aviation and Transport
Security
The Hon. Archibald Ronald Bevis MP

Shadow Minister for Veterans’ Affairs and
Shadow Special Minister of State
Alan Peter Griffin MP

Shadow Minister for Defence Industry,
Procurement and Personnel
Senator Thomas Mark Bishop

Shadow Minister for Immigration
Anthony Stephen Burke MP

Shadow Minister for Aged Care, Disabilities and
Carers
Senator Jan Elizabeth McLucas

Shadow Minister for Justice and Customs and
Manager of Opposition Business in the Senate
Senator Joseph William Ludwig

Shadow Minister for Overseas Aid and Pacific
Island Affairs
Robert Charles Grant Sercombe MP

Shadow Parliamentary Secretary for
Reconciliation and the Arts
Peter Robert Garrett MP

Shadow Parliamentary Secretary to the Leader of
the Opposition
John Paul Murphy MP

Shadow Parliamentary Secretary for Defence and
Veterans’ Affairs
The Hon. Graham John Edwards MP

Shadow Parliamentary Secretary for Education
Kirsten Fiona Livermore MP

Shadow Parliamentary Secretary for Environment
and Heritage
Jennie George MP

Shadow Parliamentary Secretary for Industry,
Infrastructure and Industrial Relations
Bernard Fernando Ripoll MP

Shadow Parliamentary Secretary for Immigration
Ann Kathleen Corcoran MP

Shadow Parliamentary Secretary for Treasury
Catherine Fiona King MP

Shadow Parliamentary Secretary for Science and
Water
Senator Ursula Mary Stephens

Shadow Parliamentary Secretary for Northern
Australia and Indigenous Affairs
The Hon. Warren Edward Snowdon MP
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Monday, 5 December 2005

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

PERSONAL EXPLANATIONS

Senator BRANDIS (Queensland) (12.31 pm)—I seek leave to make a personal explanation.

Leave granted.

Senator BRANDIS—In an article by Mr Glenn Milne concerning sedition laws which appeared in yesterday’s Murdoch Sunday newspapers, I am quoted as saying, among other things:

The reason I am not satisfied with the position that’s been arrived at is that as long as the law of sedition remains, freedom of political speech is plainly limited.

That quotation is inaccurate. What I in fact said to Mr Milne was: ‘The reason I am satisfied with the position that’s been arrived at is that, in the form the bill now takes, any restraint on freedom of political speech is plainly limited.’ That is the position which I have elsewhere placed on the public record, in particular during an interview with the AM program broadcast last Thursday morning, 1 December, an interview broadcast on Late Line the previous evening and comments I made at a doorstep interview last Thursday, which were reported by various news organisations.

The rest of the words quoted from me in Mr Milne’s article are accurate, and the rest of the article, at least to the extent to which it deals with matters of which I have knowledge, is accurate. When I rang Mr Milne yesterday to point out the mistake, he acknowledged that a transcription error had been made. I want to emphasise that, in correcting this mistake, I make no personal criticism of Mr Milne, with whom I have always enjoyed a friendly relationship and whom I regard as an excellent journalist and commentator.

ANTI-TERRORISM BILL (No. 2) 2005

Second Reading

Debate resumed from 30 November, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.32 pm)—I table a correction to the explanatory memorandum relating to the Anti-Terrorism Bill (No. 2) 2005.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (12.33 pm)—I rise to speak on the Anti-Terrorism Bill (No. 2) 2005 and, in doing so, indicate that Senator Ludwig, as the responsible shadow minister in this chamber, will be formally outlining Labor’s position on the detail of the bill when he speaks in the second reading debate. As Leader of the Opposition in the Senate I want to put on record some remarks about this debate since I think it is one of the most important debates this parliament will conduct because of the issues at stake.

I want to make it clear that Labor accept that Australia faces a very real threat of terrorist violence on our soil. We accept the need to ensure our security forces have the necessary tools at their disposal to protect Australia and Australians. But our history is also one of a strong, tolerant democracy with a fundamental commitment to individual rights and the rule of law. The challenge for this parliament and for this debate is to ensure that we achieve both appropriate safeguards against the threat of terrorism and the maintenance of our society’s fundamental commitment to the rule of law and individual liberties. That challenge has, I contend, been made infinitely more difficult by the process

CHAMBER
by which this government has sought to have this legislation enacted.

As we commence this debate, it is not clear to me what aspects of the bill will be amended by the government’s own amendments. I gather they have been circulated, but I have not had a chance to see them yet, and I gather they are largely in response to the Senate committee report. But the arrogance in the way the government has approached this legislation, its contempt for alternative views, has resulted in a very flawed process. Labor and others of goodwill have been forced to scramble to try to improve the bill, as the government denied it the scrutiny that could only result in better legislation. The better the process, the better the scrutiny, the better the debate, the better the legislation. You might wonder why the government has been so reluctant to encourage scrutiny, to engage in debate and to welcome input in order to get a better result.

It is interesting to note that the government was faced with a non-government majority in the Senate when it introduced the ASIO Legislation (Terrorism) Bill 2002 and the Security Legislation Amendment (Terrorism) Bill 2002 [No. 2], both very significant pieces of legislation—you could probably call them the government’s first and second legislative responses to the emerging threat of terror—both designed to beef up our security responses. When the bills were first introduced, Mr Howard and the government tried to play politics with national security on these matters and to play on the fear that voters held. When Labor and the minors originally sought to amend and improve the legislation, the Prime Minister said:

What the Senate have done to this bill is nothing short of security vandalism. They have vandalised this bill, they have made it unworkable, they have failed the national interest, and that is why we will not accept a bill that does not give the people of Australia the protection they need.

That was Prime Minister John Howard’s response when the Senate sought to review the earlier legislation and to improve it. Yet, interestingly, some months later, both he and the Attorney-General, Mr Ruddock, were forced to concede that the Senate had played a vital role in improving the legislation and getting a good result. In regard to the Security Legislation Amendment (Terrorism) Bill, the Prime Minister said:

We have, of necessity, tightened our security laws ... through the great parliamentary processes that this country has I believe that we have got the balance right.

This is the Prime Minister, who originally said that we had vandalised the bill, much later conceding that in fact the Senate had improved the legislation and got the balance between the competing interests correct. In relation to the ASIO bill, the Attorney-General praised the outcome as ‘a result appropriate for democracy at work’. He described it as:

... an example of how the law and our parliamentary and other democratic institutions can combine to ensure good government.

Both the Attorney-General and the Prime Minister were forced to concede on the earlier security legislation that the Senate, its committees and the parliamentary processes had ensured much better legislation. They got the balance right between responding to the threat of terrorism and the need to protect the civil liberties of Australian citizens. One wonders why, then, the government sought on this occasion to deny the parliament and the Senate the opportunity to play that role.

I believe that increasingly the government’s arrogance is a threat to our democracy. There are real issues that need to be examined and that the parliament should take seriously, and it has not been possible to do that as much as we would have liked. I do not want to go through all the history of this matter. People will recall that, following
COAG, there was broad political agreement but the government tried to insist on a one-day inquiry into this legislation rather than the proper scrutiny such complex and vital legislation required. After that move was defeated, the government finally conceded to a very truncated inquiry by the Senate Legal and Constitutional Legislation Committee. That committee, despite the time pressures, managed to do a remarkably good job in a very short period of time and produce a report that has added greatly to the debate. But all these processes were denied to us originally. The processes are again being conducted under pressure. Quite frankly, the result, if this legislation is not given proper scrutiny in this place, will be worse than if the proper processes had been allowed.

I congratulate the Senate committee. I congratulate the members of the committee on so diligently applying themselves to the task and on producing a report which I think has improved the standard of debate, focused on issues that the government was not willing to focus on and seen the prospect for real improvement in the bill. I am informed that many of the government’s amendments reflect the amendments recommended by the Senate committee process. If that is the case, that is a good thing, but we will obviously learn more about that as the debate proceeds. That is one of the great problems with this whole rush—many people around the chamber will not have seen the government’s amendments and will not know exactly what we will be debating when we get to the committee stage.

In addition to those general remarks, I want to comment on what I think has been the real difficulty in this debate. It is one that I have experienced in debating this legislation with colleagues, members of the public and members of my own family. My partner, being a lawyer, has a particularly strong view on this matter, and it is an argument I have not been able to win at this stage. But it is the case that the two sides of the argument have not engaged on the one playing field.

The Senate inquiry was the first time that the two arguments came together. The government sought to highlight the threat to Australia, the need for an urgent response and the requirement for much broader powers for security and police agencies. Labor and the states backed the general approach and ensured political consensus for the legislation. That allowed the government the certainty that it would get its legislation through and should have allowed it the capacity, then, to make sure that it got it right. Effectively, the action taken by Labor and the states took the party politics out of the issue. It was an opportunity for us to look at what legislation served Australia best, without any political point scoring, without any partisan politics interfering.

The government was in a strong position to act but, unfortunately, as with so many things of late, it overplayed its hand. Being secretive about the proposed laws, trying to cut down debate and dismissing critics out of hand, it arrogantly insisted on pursuing its course rather than taking the opportunity provided by the broad political consensus to make sure that we got the response as correct as possible, that we got the best possible legislative response to the issues confronting us. By the government’s actions it would not countenance any of the very serious concerns being raised about any excessive powers contained in the legislation or the potential threats that they posed to civil liberties.

On the other hand, the civil libertarians, including groups such as artists, the media and the legal fraternity, have argued that the measures are not needed, are excessive and destroy fundamental civil liberties. Neither side seems to recognise the fact that the other might have a point. The civil libertarians
seek to dismiss the terrorist threat, and the
government and its supporters seem to dis-
miss as irrelevant the need to balance that
with the rights of individuals in our society.
The government has refused to engage on the
danger to civil liberties, arguing that the
threat of terrorism outweighs such intellec-
tual considerations. Many civil libertarians
refuse to recognise that a new threat from
terrorism has emerged as a serious national
security issue for Australia, its government
and its parliament. As I said, I think the Sen-
ate committee was the first to try to engage
both sides of the argument and to weigh up
which should be given more consideration
and how they might balance each other. That
was a position Labor took some months ago.
We accepted the need for the legislation but
we also accepted the need for us to balance
those requirements to protect our fundamen-
tal civil liberties.

I want to make two points in relation to
that debate that I think need to be recognised.
First, the fact that the government now has
the numbers in the Senate means that the
government does not think it needs to justify
itself. It its view, it does not need to win the
argument, it does not need to convince Aus-
tralians, because it has the power and it can
do what it wants to do. So, rather than the
government seeking to convince Australians
of the need for this legislation, we have seen
it argue quite arrogantly that it has the au-
thority, the capacity and the power and that
therefore it will do what it wants to do. We
saw that through the refusal to release drafts
of the legislation and the demonisation of the
ACT Chief Minister, Jon Stanhope, for dar-
ing to allow the public to see what was pro-
posed. This contempt for public debate is a
sort of arrogance that is creeping into the
actions of this government. I think there is a
real issue here about whether or not the gov-
ernment’s majority in the Senate is leading it
down a path where it will not engage prop-
erly in public debate of serious issues of
concern.

The second issue that this throws up is
that the government has form on the politici-
sation of national security matters. You see
the cynicism of a lot of the critics of this bill
arising from earlier events—those who were
concerned about the ‘children overboard’
affair and about the way the government
handled the truth or otherwise on those mat-
ters, and those who were concerned about
the decision to take us into the Iraq war,
when claims about weapons of mass destruct-
ion have proved to be false. The increasing
cynicism in the Australian electorate about
the government’s motives and willingness to
politicise these matters has meant the argu-
ment for this legislation is much harder and
the resistance to some of the government’s
claims is much stronger, because some just
will not believe anything this government
says now about terrorism and the threat of
terrorism. It is a very sad day for Australian
politics when the government, through its
actions, has actually seen cynicism about its
motives and what it conveys to the Austra-
lian public mean that we cannot have a ra-
tional debate about the threat that terrorism
poses. That is a very important factor in this
debate and it is one that has prevented us
from really engaging with what is the appro-
priate response to the terrorist threat that now
confronts Australia.

Labor accepts that the threat of terrorism
has increased, but it seems that a lot of Aus-
tralians are very reluctant to come to that
conclusion. Many of them see it all as part of
what they regard as John Howard’s encour-
agement of fear in the community and they
are not convinced of the need for this sort of
legislation. That is a very regrettable thing. I
hope it is something that can be overcome in
time to come. That is partly why Labor has
sought to provide bipartisan support for this
legislation, in order to support the govern-
ment on the need for a legislative response to the threat of terrorism, to ensure our security agencies have the powers they need to do the job that is necessary, and to try and ensure that we get the balance right and that we get the protections for Australian citizens.

It has been a very interesting debate. Despite the lack of proper process and despite the failure to allow the Senate to do its job properly in the early stage of this debate, if you follow the debate, once it was out in the public arena, the issues gradually got canvassed and the government were forced to retreat on a number of fronts. I pay respect to the Liberal and National backbenchers who aided that process. I am sure that was a significant part of it. But the reality is that the government were losing the political debate. They could not convince Australians of the necessity of a range of measures contained in the original legislation. So the bill before us is a much better piece of legislation than the original draft that most of us first saw on Jon Stanhope’s web site and I hope, as a result of the amendments carried in the Senate over the next day or two, that the bill will be even further improved.

I am encouraged that it seems that the government is responding to the Senate report, but it has still been a very unsatisfactory process. With more time and consideration, we could get the balance right and end up with better legislation. This undue haste, this rush, is actually leading to bad legislative outcomes that in the end will be bad for our democracy. The cynicism that is growing about this government’s handling of national security matters is a very serious threat to the way we operate in this country, because if citizens believe that the government is using fear to achieve its goals then public confidence will be severely diminished and we will be a worse society for it. It is important that we do our best to get this bill right. Labor are very committed to that process. Despite our dissatisfaction with how we got here, we will do our best in the next day or so to get the legislation and the balance right.

As I said, Senator Ludwig, on behalf of the Labor Party, will be giving a more detailed response in outlining Labor’s view, but I want to make two other points. The first is that the situation in which we find ourselves in relation to sedition is farcical. To suggest somehow that the parliament should pass a bad law on the promise that it will be reviewed later is a nonsense. For the parliament to pass a bad law when clearly the majority of members of parliament—certainly the majority in the Senate—know it is a nonsense, makes a complete farce of the process.

I am not one to lecture members of the government about crossing the floor—those are obviously decisions for their own consciences—but the point is that it should not come to that. The vast majority of senators know the sedition provisions are a nonsense. They know they do not help to protect us against terrorism; in fact, they help to confine our civil liberties without providing any extra effectiveness in the protection against terrorism. They ought to be defeated. To suggest that somehow we ought to pass them and then have a review later or that certain senators might have to make submissions to other non-parliamentary bodies post the passing of the legislation is completely farcical. The Senate ought to be allowed to do its job properly now and the government ought to listen. The government ought not to try and abuse its power but ought to listen to the calm and rational arguments that have effectively won the debate for those who argue that the sedition provisions are not required. If the bill goes ahead with those sedition requirements in it, that will further undermine the public’s confidence in the parliament and in the government, because they will not understand why it was necessary.
This debate highlights a theme that I have been trying to expand on for some months, and that is that in the end it does not matter so much what the government does, in that because the government has the numbers it will pass the legislation it thinks fit, but that does not mean that it wins the political argument. The government has failed to win the political argument on a number of substantial issues in this bill. I am pleased to see it has retreated on a number of them because it has not been able to convince the Australian public of the merit of its proposals. In fact, it is the opposite: the opponents of the proposals have successfully won public support.

On the issue of sedition, the government ought to think again. Their arrogance and their denial of the reality of the situation are ludicrous. They have not won the political arguments. They cannot justify their case. This parliament ought not to pass bad legislation. It ought not to pass legislation that contains provisions which the parliament knows to be wrong and unhelpful and which will have an adverse effect on our civil liberties. In conclusion, Labor will be supporting the bill and appropriate amendments. We are committed to improving Australia’s ability to combat terrorism, but we are equally committed to ensuring, while we pass the legislation that is necessary to respond to the growing terrorist threat, that we get the balance right and that Australians’ civil liberties are protected and enhanced.

Senator PAYNE (New South Wales) (12.53 pm)—It is a pleasure to contribute to the second reading debate on the provisions of the Anti-Terrorism Bill (No. 2) 2005. As Senator Evans noted in a number of his observations, the Senate Legal and Constitutional Legislation Committee in particular has been focused on this bill for some time and has some extended experience in this regard since the first legislation in this area was enacted in 2002. Unsurprisingly, I do not agree with all of Senator Evans’s observations in relation to matters of process and the concerns that he raised in that regard. Perhaps my reticence to embrace entirely his remarks is because in fact what I see played out is an intensive Senate inquiry—I acknowledge absolutely that it happened over a relatively short period of time—and very intense days of hearing, but an inquiry which still attracted almost 300 submissions and which nevertheless resulted in the comprehensive ventilation of a range of concerns of both individuals and organisations in the community in relation to the legislation. That, as well as extensive discussions between the Attorney-General, members of the government’s Attorney-General’s and Justice Committee and, I am sure, other interested parties is a very important part of the process of the development of legislation such as that which we have before us today.

All of that is a contribution to the most important aspects of parliamentary process. In fact, I am struck by some observations which were made before 30 June and the change in the Senate numbers—and some which will be made by people repeatedly, no matter what the facts, into the future. That is, that the process and the role of this chamber were going to be destroyed beyond recognition and that it would effectively face its permanent demise. I think that an inquiry such as this gives the lie to those suggestions. Even for those dissatisfied with the ultimate outcome—and I know there are a number in the chamber and I know there will be some in the community—in terms of maintaining the credibility of the committee process and of the review role of the committee, this is a good example and that this committee has done a good job.

That is in no small part due to the participation of an extremely large number of members of this chamber. I have acknowledg-
edged them previously and thanked them for their contribution to that process. It is also due in no small part to the intensive work of Senate committee secretariats. It is always a very interesting process to see the work of a Senate committee and its secretariat placed in the hands of a government department, with literally hundreds and hundreds of lawyers at their beck and call, and to see the rigorous job they do in going over it in response to committee recommendations. I think we can be very proud of the work that we have presented on this occasion.

As I mentioned when tabling the committee report on Monday of last week, the committee made 52 recommendations, and many of those were in fact procedural recommendations. They were aimed at improving the operation of the processes of preventative detention orders and control orders. I acknowledge that there was extensive opposition to the very existence and introduction of those orders. Given the intent of the bill and given the provisions that were incorporated in the bill, what the committee in the majority chose to do was to suggest amendments to procedures for the development and handling of the preventative detention orders and control orders. I acknowledge that there was extensive opposition to the very existence and introduction of those orders. Given the intent of the bill and given the provisions that were incorporated in the bill, what the committee in the majority chose to do was to suggest amendments to procedures for the development and handling of the preventative detention orders and control orders. I acknowledge that there was extensive opposition to the very existence and introduction of those orders. Given the intent of the bill and given the provisions that were incorporated in the bill, what the committee in the majority chose to do was to suggest amendments to procedures for the development and handling of the preventative detention orders and control orders. I acknowledge that there was extensive opposition to the very existence and introduction of those orders. Given the intent of the bill and given the provisions that were incorporated in the bill, what the committee in the majority chose to do was to suggest amendments to procedures for the development and handling of the preventative detention orders and control orders. I acknowledge that there was extensive opposition to the very existence and introduction of those orders.

I return to the value of this process. One of the important submissions we received that really added value to the process was the submission from the Inspector-General of Intelligence and Security and the Commonwealth Ombudsman. Both Mr Carnell and Professor McMillan attended the hearings, gave evidence and provided some very cogent suggestions for how individuals who are subject to these provisions may be better protected. We have taken those up. The government has overwhelmingly agreed with those. I think that is indicative of the importance that the Senate committee places on those protections and, in turn, that the government places on those protections, as shown by its response.

There are a number of other steps which the committee suggested should be taken, and they have been taken up—some in part and some in whole. Some, of course, have been rejected by the government. One of those on which I wish to concentrate for a couple of moments pertains to the question of sedition. Without necessarily dealing with the detailed provisions of the bill as it stood before the amendments that will be proposed, the observations I want to make are about the work of the committee in that regard. I have received almost innumerable exhortations by email as to what I should and should not do on this particular issue. As it is free advice, it is probably worth what I paid for it, so I might ignore that.

The point to make is that, in producing the report and in choosing the recommendations that we did from the across the parties who signed off on the report, we took two separate steps. One was to advocate the removal and excision of proposed schedule 7 of the bill that pertained to sedition. In fact, it has
been referred to broadly, not just in the chamber today but also elsewhere, that one of the reasons for that was that a review of the legislation in this area had already been announced. It seemed compellingly simple to suggest that the better plan would be to review the legislation in advance of that review, not to enact new provisions and review it post that occurrence.

It was not surprising to me, and I am sure it was not surprising to any other experienced members of the committee, that the government rejected that recommendation. But to be constructive and to make a real contribution to the consideration of this legislation, the committee recommended the alternative. We made a number of recommendations which have resulted in proposed amendments to the bill before the chamber in this particular area. Not all players, by any stretch of imagination, will be happy with those proposed amendments and I acknowledge that. I also acknowledge that the committee, in recommending excision in the first place, took great cognisance of the overwhelming sum of the submissions on this matter. But what we have endeavoured to do is make some constructive and useful contributions to the amendment of the draft bill to ensure that what does come before the Senate is better, is something which is more practical and, in some cases, changed quite fundamentally, before the legislation is enacted.

All of the free advice that I have received which has included lots of suggestions—some polite, some less so—about what I might and might not do, ignores the fact that we choose to be part of a particular political process in this place and in our parties. We choose to approach politics in our own way as individuals. I for one respect the decisions of my colleagues who do that. Not every member of parliament is probably prepared to do that. Some people are quite robust in rejecting the individual views of their colleagues; some are even aggressive. That is not my way, however. In making alternative suggestions in relation to sedition, I am pleased to see that those have been taken up by the government. They will be dealt with in this chamber in due course with the proviso that the review is to be held next year. It will be a comprehensive review of the law. Whether, as Senator Evans alluded to, one is required to make a submission to the review or not, it does nevertheless place the legislation in a better position to come before this chamber.

I did just want to make some brief observations. I noticed that that we have in the chamber this afternoon a number of officers of the Attorney-General’s Department. It is, of course, not possible for a committee such as the Senate Legal and Constitutional Legislation Committee to do its job without the assistance and presence of those officers. One in particular, Mr Geoff McDonald, was a witness over what can only be described as an extended period of time, a very intensive period of questioning, and I thank him for his contributions and assistance in enabling the committee to bring its report to this chamber.

Senator STOTT DESPOJA (South Australia) (1.03 pm)—I rise to speak on the Anti-Terrorism Bill (No. 2) 2005 and place on record, as the Australian Democrats’ Attorney-General and foreign affairs spokesperson, our opposition to the legislation before us. This legislation is bad law. We believe that it undermines some fundamental human rights and civil liberties. We believe that this bill attacks myriad basic human rights and does so in an unprecedented way. We are critical not only of the legislation before us but also the means by which it was introduced and dealt with by this government. We believe that the opportunity for adequate analysis and debate on the legislation has been stifled. I am not just talking about the
committee stage in the chamber over what will be the next day or so, but indeed the initial proposal by the government that would have effectively seen a one-day inquiry into this legislation.

Among the strongest critics of this legislation are the legal professionals, human rights organisations, academics, representatives of the Muslim community, artists and journalists. Indeed, former Prime Minister Malcolm Fraser has stated that he is ashamed of the path that this government is leading his party and the nation down. He has stated that this is ‘the sort of law that you would find in tyrannical countries’ implemented by what has become ‘a party of fear and reaction’.

The Australian Democrats are acutely conscious of the fact that terrorism is a danger and of the threat that it poses. I am not sure about Senator Evans’s suggestion that civil libertarians dismiss the terrorist threat. I think that is a somewhat naive and offensive suggestion. What we believe, though, is that this bill does not have a proportionate response to the issue before us, which is to the threat that terrorism poses to our country. The laws build on legislation implemented by this government in recent years; legislation that has also had an impact, in a derogatory and deleterious way, on human rights and civil liberties in this nation. Like the industrial relations legislation, we believe that this legislation is unprecedented in its extensive powers and in its potentially damaging impact on the lives of Australians.

The Democrats have a number of key concerns with this bill. No proposed schedule is immune from criticism; not just ours but the criticism of many others as well. The anti-terrorism legislation will insert a new definition of ‘advocate’ into the Criminal Code to allow that an organisation advocates the doing of a terrorist act if it directly or indirectly counsels, urges or provides instruction on, or directly praises the doing of, the terrorist act with the intention, or in circumstances where it is likely to have the effect, of creating a substantial risk of the terrorist act occurring. This provision effectively, and needlessly, creates a new ground of regulation on which a terrorist act can be made banning an organisation. The government has not shown why existing laws are inadequate in relation to the banning of terrorist organisations.

This bill erodes many fundamental human rights, including the right to liberty; a fair trial; freedom from, and protection by the law from, unlawful interference with privacy, family, home or correspondence; and, not least of all, to be treated with humanity and dignity. These rights are enshrined in international law. For example, they are codified in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. These are conventions to which Australia is a signatory, and yet our government has introduced legislation that potentially allows for outright violations of these codified, well-accepted international laws. The Democrats have drawn attention to this through our role in the committee stage, in our recommendation to the committee report and, indeed, in the amendments that we circulated in this chamber last week. We will seek to attach the International Covenant on Civil and Political Rights to this legislation not because we think it will necessarily prevent the government eroding human rights contained in that particular covenant but because it will provide a reminder for government and others as to what rights we should be protecting and, indeed, how we are violating them, if that is done under this legislation.

This bill will see the creation of a new system of control orders to authorise the close monitoring of terrorist suspects, including provisions for shackling them with track-
ing devices or, in some cases, ordering home detention. This will apply to people who have not been charged. It will also provide for a new police preventative detention system that will allow detention without charge, with the aim of preventing a terrorist act or preserving the evidence of such an act. Additionally, there will be new powers for the AFP—and, of course, state and territory police officers—to stop, question and search people and seize personal items without a warrant in Commonwealth places and prescribed security zones. The Democrats remain fundamentally concerned about the treatment of children under this legislation—that is, minors, 16 to 18 years old. They will still be able to be detained in preventative detention orders, despite being separated from adults—I should say that this should be not just in exceptional circumstances but always and our amendments will provide for that. We have all seen the impact that detention in the immigration context can have on adults, never mind children—and especially children who are separated from their parents.

In a fundamentally offensive provision, this legislation will see the removal of the core legal principle protecting confidentiality of the communication between lawyers and their clients. The government flouts international law by attacking another of our democratic institutions: the legal profession. It seeks to destroy a fundamental legal principle—a cornerstone of our democracy. I draw the government’s attention to recommendation 7 of the report of the Parliamentary Joint Committee on ASIO, ASIS and DSD, following a review of ASIO’s questioning and detention powers. The committee in that circumstance recommended:

... communications between a lawyer and his or her client be recognised as confidential; and

- adequate facilities be provided to ensure the confidentiality of communications between lawyer and client in all places of questioning and detention.

If it was good enough then, it is good enough for this bill. These recommendations follow evidence that was provided by the Inspector-General of Intelligence and Security and the Director-General of ASIO, with full knowledge of security issues. The notice-to-produce powers for AFP officers will abrogate legal professional privilege and will provide officers with the power to compel disclosure of commercial and personal information. Journalists will also be affected by this provision and will be unable to assure their sources of confidentiality. The government shows further disrespect for the operation of the judicial system by allowing for orders to be issued by police officers and courts with no specialist knowledge of criminal justice administration.

Cutting corners has never been so perilous. The abuse of the judicial process continues. This bill imposes sanctions on people who have not been charged with any crime. This fact alone must make us question this legislation and, indeed, makes it reprehensible. But this fact does not stand alone. As the Law Council submitted to the inquiry, the bill exposes those subject to it to a de facto form of criminal justice that lacks many of the existing essential safeguards. The government not only proposes to penalise people it has insufficient evidence to charge, but is proposing that those subject to preventative detention orders, control orders and prohibited contact orders also be denied access to all of the information that provides the basis of the order against them. This flies in the face of the requirements of the criminal justice system. They will be given a summary of grounds—that is all. This is in complete contravention of some fundamental legal principles, such as the presumption of innocence and the right to a fair trial. The bill also excludes proper judicial review. These
proposed changes expressly prevent detainees subject to preventative detention orders from seeking review under the Administrative Decisions (Judicial Review) Act.

The government is being challenged on these points—not just by us but also, strenuously, by a number of groups, including lawyers, human rights groups and, of course, the broader legal community. It is negligent of the government to ignore these criticisms so completely. I think it speaks volumes that the Law Council has been driven to condemn the government’s approach to this legislation through a full-page advertisement in today’s Australian and in other papers because they could not get a sufficient response to their concerns and criticisms from this government, and specifically the Prime Minister. The Law Council is a pretty impressive, dignified and privileged group, I suggest, and yet they cite, in the form of a full page in papers around the country today, what is wrong with this legislation. I recommend this to all senators: before we vote on this bill, you should read this letter and certainly read their submission.

The financial sector also has concerns about this legislation. The antiterrorism bill will amend the Criminal Code Act and the Financial Transaction Reports Act to expand offences relating to the financing of terrorism and to increase financial transaction record keeping and reporting requirements of businesses. The changes to financial reporting requirements demonstrate a clear lack of consultation with industry on the detail of the construction and effect of the new provisions. We are critical that they government is rushing this legislation through prior to the completion of the anti-money-laundering review, because when the review is completed the government could legislate more effectively. It could do this in a more careful and considered fashion. There is no rush for this legislation.

The Democrats are particularly concerned about the potential for serious infringements on the privacy of Australians. Privacy rights are being absolutely whittled away under this government with successive legislation and a raft of reforms. This bill will also result in the expansion of the power of the police and ASIO to gather information and intelligence. This power will not be strictly limited to terrorist activity. It will also allow for CCTV in airports and on aircraft, and for the AFP and ASIO officers to access passenger list information. The Democrats note with concern the many and varied aspects of privacy that will be affected by this bill—bodily privacy, territorial privacy, communications privacy, freedom from surveillance, and information privacy. Indeed, it is worth looking at some of the criticisms contained in the Victorian Privacy Commissioner’s submission to the committee or, indeed, reading the federal Privacy Commissioner’s submission to the inquiry.

The government’s rushed approach is again evident in the response to criticisms of its inclusion of the sedition laws. It is insisting on passing laws that it has already acknowledged need a broad-ranging and complete review. But this bill does still expand archaic sedition laws with new offences. The sedition provisions of this bill are of great concern to freedom of speech and expression in our precious open democracy. I attended the AWGIE awards, along with a number of other members of parliament, on 25 November. We heard prominent playwright David Williamson’s letter being read out. His concerns included:

The proposed sedition laws and the frequent vilification of artists and intellectuals are part of the same agenda. The artists function has always been to be alert and critical about the society around them. Don’t let this government and its press attack dogs bully us out of our right and need to exercise this function.
The Democrats do not believe that the government has justified its case for sedition laws in Australia. We already have laws protecting areas that the sedition laws cover—areas such as racial vilification; planning, preparing and carrying out a terrorist act; contributing to terrorist funding; and belonging to a terrorist organisation. But this bill allows for new offences that do not necessarily have a link to force or violence. These new provisions mean that anyone speaking in support of Iraqis who reject foreign occupation could be jailed for seven years.

Those accused of sedition must prove their innocence rather than have their guilt proven by the prosecution. That reversal of the accepted notion of the burden of proof in criminal cases is reprehensible. The defence attached to these laws is far too limited. It provides only strict categories of political expression. Interestingly, now it includes publishers and media organisations. There is still no protection for those participating in general discussion, educators, journalists, artists and comedians. Another criticism that has been levelled at the sedition offences in this bill is that the penalties are excessive. This bill includes a 10-year sunset clause that will only apply to preventative detention orders, control orders and police stop, search and question powers. The sunset clauses that attach to parts of this bill are woefully inadequate. Ten years is far too long a period of time for such an intrusive and controversial law to operate without analysis and reflection.

In one of the only remaining displays of the benefit of functional democratic process in some respects, this bill was referred to a committee. I do not suggest that the committee process was anything but comprehensive, impressive and cross-party, and that, in some cases, the recommendations were consensual. However, three weeks was not long enough. Any proposal for a one-day inquiry was indeed farcical. So the Democrats are very pleased that the government agreed to our amendment to extend that time frame by three weeks. But three weeks is not good enough. These are fundamental changes to law and democracy as we know them.

The Democrats do support many of the recommendations contained in the Senate committee report, but they do not go far enough, which is why we are moving so many amendments in the committee stage. The theme running through all of the submissions to the committee—and, let us face it, many people, including government agencies, human rights and civil liberties organisations, academics, legal professionals, representatives of the Muslim community, artists, journalists, media organisations and many other concerned citizens, took part in that process—was extreme concern about the scope of this bill and its potential to adversely affect the lives of Australians. There was particularly widespread criticism and concern relating to the preventative detention and control orders. The Law Council of Australia said:

The Law Council of Australia urges the government to abandon proposals to introduce preventative detention orders and control orders—because—Persons not charged with or found guilty of a criminal offence should not be subjected by the State to imprisonment without trial or to restrictions on their liberty that impair their fundamental freedoms and human rights.

The Public Interest Advocacy Centre recommended:

... that the parliament reject the Bill until the Government provides evidence to justify the need for measures in their current form.

The Human Rights and Equal Opportunity Commission said:

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Australia has an international legal obligation to protect its citizens from the risks of terrorist attacks.

Indeed. It goes on:

However, the steps Australia takes in fulfilling that obligation must not in themselves threaten the values and principles embodied in instruments like the ICCPR, which provides a road map to guide legislators in the steps that may be taken to combat terrorism in free and democratic societies.

We welcome the depth and diversity of the submissions to that committee process given the short time frame.

We will seek to amend this legislation to ameliorate its worst aspects, but we do so with a warning. We are overturning some fundamental rights. We are overturning and eroding some fundamental legal principles. The Law Council know that. That is why they have gone to the expense and the extent of taking out full-page advertisements in the paper today. We will move amendments in this place that correspond with the recommendations that we made to the Senate committee’s report. We will try to fix up the worst aspects of the legislation. But, most importantly, we will try to address the potential impact on and violations of international law. There is an inherent disregard in this legislation for international human rights standards and fundamental legal democratic principles. The interests of all Australians, we believe, demand the inclusion of amendments to ensure those basic issues are protected.

We will seek to amend this legislation to incorporate consideration of Australia’s human rights obligations for prescribed authorities exercising powers relating to the prescription of terrorist organisations, control, preventive detention and prohibited contact orders. We will ensure that all decisions under division 4 will be proportionate to the standards required by the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, as well as the Convention on the Rights of the Child.

We are going to try to put some international backbone into this legislation. We are going to try to protect those rights that, as citizens of this country, we do not want our government stamping out, in the same way that we do not want the scourge of terrorism and those who would perpetrate it stamping out those particular rights. I urge honourable members to read this letter today—the letter to which John Howard, our Prime Minister, has not replied. I want people in the community to read the concerns of the highest law council, the highest council of legal professionals, in this land. They say:

The Government is using the threat of terrorism to introduce laws that put our most basic civil liberties under threat. The ramifications have the potential to be as terrifying as terrorism itself. That is not civil libertarians like me dismissing the threat of terrorism. That is civil libertarians and people who love this country saying, ‘This legislation is not appropriate; it goes too far.’ It is time for the government to pull back, review what is in front of us and come back next year with a bill that balances human and civil rights with some of the measures required to attack and confront terrorism in Australia. (Time expired)

Senator LUDWIG (Queensland) (1.23 pm)—I rise to speak on the Anti-Terrorism Bill (No. 2) 2005. The Australian Labor Party has always supported sensible measures that will have the effect of protecting Australia and Australians. On this bill, it is no different. The Labor Party supports the general thrust of the legislation and, indeed, many of the notions which Labor has advocated for some time are present in this bill. Parliament must take every reasonable measure to provide Australia’s security agen-
cies with the necessary tools and powers to fight terrorists in Australia. This must be balanced against the legitimate rights of Australian citizens to natural justice, freedom of political communication and a presumption of innocence.

The original bill, as it was presented, clearly did not meet that test. The original bill would have operated without adequate supervision and would have operated far too widely. In response, the current bill has taken up many of the concerns of Labor senators, state governments and the federal Labor Party. The concerns that we had included: real judicial scrutiny of control orders, with an opportunity for the subject to put their case; real review of preventative detention on the merits and not just on the technicalities; abandoning the extreme shoot-to-kill provisions; and legislating in an independent review after five years. Some of those concerns have been met, but not all.

I would now like to add a couple of words on the committee process. As you know, the very existence of the committee process was a loss for the government, which had initially intended to rush the legislation through on Melbourne Cup day, hold a one-day Senate inquiry and then, it appears, leave it at that. This out-of-touch government was forced into a backdown from this extreme position. It was forced to hold a more lengthy inquiry and to subject the bill to more scrutiny. When the committee met, it heard concerns from a wide range of community and advocacy organisations about the operation of the bill. I believe that a number of the concerns raised, in particular about control and preventative detention orders, are adequately dealt with in the second bill, and adequate safeguards, such as strict time limits and access to merits review, will help to ensure that the powers are used appropriately and proportionately. Additionally, a person detained under a preventative detention order would be precluded from interrogation by the police and must not be subjected to cruel, inhumane or degrading treatment.

A number of submissions to the inquiry called for a position similar to the Queensland Public Interest Monitor. The Queensland Law Society and the Human Rights and Equal Opportunity Commission, amongst others, have called for the creation of this position. In the other place, Mr Beazley has moved a second reading amendment calling for the creation of such a monitor. Such a position is an important counterbalance and protection which is needed under these laws.

Fifty-two changes were recommended for the bill by the committee. The government has taken up a number of them but has failed to take up others. The Labor Party will move amendments—and I foreshadow that—to the legislation to ensure that a greater range of the recommendations put to the committee are taken up in this bill. This includes areas such as access to legal representation, greater rights to access the reasons for decisions and greater accountability. The Labor Party will move amendments to ensure biannual reporting and a five-year sunset clause and review, as I earlier said.

Turning to control orders, the bill provides for senior Australian Federal Police officers to apply for certain control orders to impose strict conditions on persons suspected of a terrorist offence. Such requests are approved by the Attorney-General, although there are certain circumstances in which this requirement may be briefly waived due to logistical or other issues. If the Attorney-General assents to the request, then it may be presented to a court for approval. The court must be satisfied on the balance of probabilities of one of two things: either, firstly, that the making of the order would substantially assist in preventing a terrorist act or, secondly,
that the person has provided training to, or received training from, a listed terrorist organisation and that the terms of the control order are reasonably necessary, appropriate and adapted for the purpose of protecting the public from a terrorist act. The bill also gives power to the courts to revoke a control order. A person who is the subject of a control order may make an application to the court requesting that the order be varied or revoked.

The bill introduces provisions for preventative detention orders. These orders can be put in place when, as is similarly the case for control orders, there are reasonable grounds to suspect that the detention of the subject will prevent an imminent terrorist attack—that is, an attack expected within 14 days—or when an attack has occurred within the last 28 days. An initial preventative detention order will be available on application of an AFP officer to a senior AFP officer and will have effect for up to 24 hours. This may be extended to 48 hours by an issuing authority, who may be a judge, a retired judge or senior legal members of the AAT. These provisions acknowledge the reality of terrorism and how security and law enforcement agencies must deal with terrorism. Terrorist offences, due to their sheer capacity for destruction and chaos, are offences which need to be identified early and prevented.

As with all sections of this bill, there needs to be oversight of those powers. Oversight is required to make sure that the considerable powers are used responsibly. In this section, oversight is achieved in a number of ways. Firstly, the longer preventative detention order is available only on application to particular judicial officers. Secondly, the number of orders that can be obtained are strictly limited. No more than one preventative detention order may be taken out against a person within a certain period. This ensures multiple detention orders cannot be taken out against a person, which could effectively allow for indefinite detention with no judicial oversight.

Thirdly, there is a common law right to judicial review from the moment the order for detention is made. Detainees will have the right to contact a lawyer to seek advice about making an application for judicial review. Fourthly, after the detention is complete, the subject can apply to the Administrative Appeals Tribunal for full merits review of the order, providing an important avenue for redress. The AAT can order compensation to be paid if the person should never have been detained in the first place.

The preventative detention regime is necessary for the operation of this bill, but it needs effective oversight in order to ensure that its smooth operation minimises interference with the type of long-held liberties we enjoy in a free society. The three methods outlined above go some way to ensuring that the balance is met, but the bill still stands in need of the additional safeguards that the Labor Party has proposed—for starters, more regular reporting and a shorter sunset clause. We proposed many of these things in our second reading amendment during the debate in the other house. Many of them have been taken up and, it appears, are reflected in the committee report. As I said, I will deal with that later.

I now turn to one of the more contentious areas—sedition. The sedition provisions have not had the benefit of scrutiny by the state and territory governments, and it shows. They are hastily drafted and poorly realised, potentially having a far wider effect than was envisaged. While the current sedition laws appear antiquated and have not been used in half a century, the proper process would have been to conduct an inquiry, assess the need for change and develop legislation in consultation with other parties to
ensure that the final product is well drafted and based on sound principles. That is not what has happened here. As Labor’s spokesperson for homeland security, Mr Arch Bevis, pointed out in his speech on the second reading in the other place, the current wording of the bill would include persons engaged in an otherwise peaceful protest who happened to breach a traffic law. This section needs to be redrafted to ensure that peaceful protests and legitimate criticism of the government do not fall under the scope of this section.

Indeed, the need for a redraft has already been somewhat grudgingly admitted by the government. The Attorney-General, Mr Philip Ruddock, has stated that the sedition provisions will be reviewed immediately after they have been enacted, but that misses the point somewhat. Why would you introduce and pass legislation knowing that you will immediately have to review it? Why not hold off on these sections and conduct the review of them now, passing them only when we know that they are ready, well drafted, appropriate, proportionate and adapted to their purpose?

The answer is that this is about face saving. The Attorney-General was trying to play wedge politics with national security, but in truth he ended up dividing his own backbench. The government’s position on sedition represents neither logic nor reason. It seems that it is nothing more than the outcome of a factional skirmish among their backbenchers. There is overwhelming opposition to the laws, and I am not just talking about the Liberal backbench. The committee report heard many submissions about these laws and about the need to not progress them. There is also resistance to the ramshackle process which saw them proposed with no consultation and no drafting—in fact, with very little of anything. If there is a need for updated sedition laws, and there may very well be, then they should be subject to the ordinary course of consultation and drafting—although this government does not have a particularly startlingly good record on that. The sedition laws need to be excised from this bill and taken back to the drawing board. The Law Reform Commission can play a role in ensuring that, if needed, the laws are properly drafted and proportionate.

Turning to financial schedules 3 and 9, one of the great scandals of this government’s lacklustre management of the counter-terrorist agenda over the last few years has been its consistent failure to introduce legislation to bring Australia into line with the standards set by the Financial Action Task Force’s nine special recommendations on terrorist financing. The legislation was first promised in December 2003 but, nearly two years later, we are still not compliant with all of the special recommendations made by FATF and we are only now seeing a trickle of legislation to deal with the recommendations—as reflected in this current draft bill. It is not part of the response to the antiterrorism issues that are contained within this bill; it looks very much like an add-on to save face for another minister, Minister Ellison.

This bill goes some way to implementing Australia’s obligations, and that is certainly welcome, but it leaves a lot to be desired. The current legislation should see Australia comply with FATF recommendations 2, 3, 5 and 9. That still leaves five of the special recommendations unimplemented. It does not even take us to the halfway mark in meeting our obligations under the recommendations, because there are 40 plus nine of them in total. We still have not seen the remaining legislation dealing with those recommendations.
The continued failure of the government to progress these reforms marks one of its more dismal failures. We were promised a draft bill to implement the rest of the FATF obligations in November. December has started, and, unless a draft is seen very shortly, it looks like this government will miss not only the November deadline but the December deadline as well. However, I congratulate the government for finally taking some moves to correct its dismal failure over the last two years by at least providing some legislation to deal with the special recommendations made by FATF. However, the government stands condemned for its failure to produce and provide comprehensive legislation to address the 40 plus nine FATF recommendations.

Of course, this is the first set of counter-terrorist financing and anti-money-laundering measures we have seen in a little while. The second set of measures will be contained in the anti-money-laundering bill, which, as I said earlier, was due towards the end of November. Yet again the government has failed to deliver on time. It does seem to be incapable of delivering anything much on time nowadays. Of course, it does not end there. That provides only the first tranche. There is a second set to be promised as well, although we do not have a date for that either. No wonder the government is not prepared to provide a date for the second tranche.

I do not think the banking and finance industries object to doing their bit to combat terrorist financing, but they do object to being made to jump through the same hoop three times within a relatively short period of time. They object to upgrading their systems and retraining their staff three times within a year as a result of legislative change, such as that envisaged by this bill. That is a significant impost on industry, yet we find that the Attorney-General has not bothered to try to reduce that impact. He could consult—that would be a starting point—but it seems that the government has failed to do even that. Ultimately, though, it is of concern that such a crucial piece of legislation that is needed to fight international terrorism has taken so long to come to parliament and, when it finally does come, is incomplete. It marks merely another chapter in Senator Ellison’s continuing failure to progress the anti-money-laundering legislation and counter-terrorist financing agenda and is yet another sign that the Howard government is soft on fighting the financing of criminals and terrorists.

Labor foreshadow that we will be moving amendments during the committee stage of this bill. Labor will pick up the key recommendations that the government has not picked up. As I understand it, the government intends to pick up many of the recommendations of the committee report. However, it is not going to go all the way—it will not pick up all the key recommendations. Labor will be moving those key recommendations to ensure that there is a review and there are sunset provisions, and, as I said, Labor have proposed further amendments which would continue the process of making this bill more accountable while providing our security agencies with real powers to fight terrorism.

Labor’s amendments call for a number of changes—principally, greater scrutiny of the powers and greater access to legal representation. Labor’s amendments are in line with the committee recommendations and would increase accountability and ensure a full public and independent review of the act five years after the commencement of the act. They would also allow for biannual rather than annual reporting of the working of preventative detention orders, with greater information provided to parliament. Labor’s amendments would also broaden the scope
of defences allowed under sedition and allow a ‘good faith’ defence, which would run along the grounds of including any statement, publication or discussion for any genuine academic, artistic or scientific purpose or any other purpose in the public interest.

Although we are picking up those amendments, let me be plain: we will oppose schedule 7, which is the sedition provisions, in total, even amended. Given the haphazard way the proposed sedition laws were secretly inserted into the bill, there do need to be the greatest possible safeguards for political communication and genuine debate in Australia. Labor have moved other amendments, to ensure that body searches are conducted appropriately and to allow far greater access to legal representation for persons held under a preventative detention order. Those matters will be dealt with and are in line with committee recommendations. With the foreshadowed Labor amendments, an AFP officer will only be able to refuse the legal representation if there are reasonable grounds to suspect that the consultation will interfere with the purpose of the order.

In conclusion, I note again that Labor will support this bill, despite its flaws, but we will oppose schedule 7, the sedition provisions. We will support the bill because it represents a necessary addition to the range of powers and tools that Australian security agencies have at their disposal to fight terrorism and to keep Australia safe. I say that despite the continued failure of this government in the areas that I outlined above—the consistent failure to act on the full range of counter-terrorism financing laws, the failure to put in place the necessary technical support that would underpin the laws and the failure to take on practical measures. The government has not addressed practical issues such as policing at airports. It has only now, very belatedly, started to move on some of these areas.

The job of a responsible opposition is to facilitate good legislation and to mitigate that which is poorly drafted; to improve legislation and to join in the committee process to ensure that there is a committee process. You can see that that committee process has produced a better result when you go back and reflect on the Stanhope draft. It is a shame that the government will not pick up all of those recommendations and progress them. I will just say one or two things about the role of a responsible government. This bill has been improved by going through an adequate Senate review process. Although the process was still short, it did provide a much better opportunity than the one day that was originally proffered. The message to the Prime Minister is: stop your abuse of the Senate processes, allow committees to do their work and allow the Senate to ensure that committees have wide terms of reference so that they can inquire into legislation. This is the first government to have control of the Senate since the Fraser era, and it is showing in the glib and gleeful abuse of Senate process by a government that is increasingly impatient, arrogant and out of touch with the needs of real Australians in the community. Learn the lesson today. (Time expired)

Senator BRANDIS (Queensland) (1.44 pm)—Not very long ago, the Supreme Court of Israel was called upon to decide a case about the legality of using violent means to interrogate suspected terrorists, and the court decided that such conduct was unlawful according to the laws of the state of Israel. In giving his judgment, the President of the Supreme Court of Israel, Justice Aharon Barak, said:

We are aware that this decision does not make it easier to deal with that reality. This is the fate of democracy, as not all means are acceptable to it, and not all methods employed by its enemies are open to it. Sometimes, a democracy must fight with one hand tied behind its back.
That presents starkly the policy choices and the moral choices that governments and legislators in democracies face when dealing with the threat of terrorism. On the one hand, let no-one doubt for a second—no serious participant in this debate could doubt for a second—that the threat of terrorism is real. We saw it in New York, we saw it in London, we saw it in Madrid and we saw it twice in Bali. Only a fool would suggest that terrorism may not strike at our shores. So governments do have to do something about it. But in taking measures to deal with a real and specific threat, in a liberal democracy we must be conscientious to ensure that those measures do not overreach, that they are tailored and nuanced in such a way as to give maximum protection to traditional liberties. That is what I believe this bill does.

The bill in the form in which it ultimately reaches this chamber, having regard as well to the government amendments which I know will be moved in the committee stage, is the outcome, I know from my own personal involvement, of a very conscientious attempt within the government to reconcile those two conflicting values: the real—not the imaginary or fanciful—threat of domestic terrorist violence in Australia and the fact that as a liberal democracy we fight with one hand tied behind our backs.

Too much of this debate has been carried on from the point of view of law enforcement, as if the law enforcement paradigm, the paradigm of the criminal law, was the relevant one. But that is not what this is about. This bill actually creates very few new offences. This is not a debate about law enforcement; it is a debate about interdiction and prevention. If we get to the stage of criminal law enforcement too often, the terrorist outrage will have been committed. The obligation of the government to protect its citizens will not have been discharged. So most of the provisions in this bill, the introduction of new measures largely unfamiliar to us, such as preventative detention orders and control orders, are not about prosecuting people for crimes; they are about prevention of terrorist conduct by interdiction and surveillance and equipping the security agencies and the Australian Federal Police as fully as they need to be equipped.

In the hearings of the Senate Legal and Constitutional Legislation Committee we heard no argument from any of the law enforcement agencies about the importance of safeguards. The best evidence, I think, was from Deputy Commissioner Lawler, the Deputy Commissioner of the Australian Federal Police, who said in response to a question from Senator Mason words to this effect: ‘Look, we do not mind how many safeguards there are as long as the operational capability of the Federal Police is not interfered with.’ So those who overdo the rhetoric, who ramp up the hysteria, who use this as an occasion, when we are seized with a serious moral and legislative issue, to engage in cheap rhetorical exaggeration would do well to reflect on that.

This has not been a grab for power by the policing agencies. There has been a consensus that the safeguards should be strong—and they are. They are much stronger now as a result of the two committee processes through which the legislation has proceeded—the government backbench committee and the Senate committee. That fact is also reflected in the fact that this is bipartisan legislation. It has largely the support of the opposition, which I welcome; it has the support of the state and territory governments; it is legislation which, in its essential respects, is endorsed by every government in Australia.

In arriving at the legislation in its ultimate form there was, as we know, much discussion within the government and much public
discussion. To those who say that has improved the legislation, I think you are right. I want to pay my tribute to Senator Payne, the Chair of the Senate Legal and Constitutional Legislation Committee, who approached this issue with professionalism, poise and thoughtfulness at a time which was personally difficult for her. I also want to pay tribute to members of my committee, the government Attorney-General’s committee, who participated in this debate behind closed doors, as is the way of government committees, during the course of eight long meetings with the Attorney-General, stretching over some 16 hours. Mr Turnbull, the member for Wentworth, Mr Georgiou, the member for Kooyong, Mr Wood, the member for La Trobe, Senator Mason and Senator Parry deserve particular acknowledgement.

I also want to acknowledge the tremendously constructive role of the Attorney-General, Mr Ruddock. Mr Ruddock could not have been more helpful in seeking to find the right answer to attempt to engage with us on the common task of balancing the two imperatives of protecting the community from the real threat of terrorist violence while at the same time making as few compromises of traditional liberties as possible. Mr Ruddock has been much criticised by those who have had a distant vantage of this debate. But, to those who participated in it and engaged with him, his involvement was an honourable and impressive one. The legislation, as I said, is largely now a matter of bipartisan consensus.

I want to finish by saying a word about that area of the legislation which is not a matter of consensus—that is, sedition. May I say that the debate, which has taken on such a fevered pitch in the media in recent days, is now largely a debate about very little indeed. One of the amendments that will be moved in the Senate this afternoon as a government amendment is to include in the defences to the crime of sedition this defence: to publish in good faith any report or comment on a matter of public interest. Those words could not be more widely drawn. When asked about those words on the ABC’s World Today program last Thursday, Mr Bret Walker SC, a person who is commonly associated with the civil liberties lobby but who brings the expertise of an experienced silk to bear on the argument, had this to say:

I think it’s a very significant change. I think the Government has done the right thing.

Addressing the concerns in relation to freedom of speech that had been held by some, he went on to say:

So, look, I think that probably the changes will be enough to certainly dampen my concern in that area.

I had a lot of sympathy when I saw the Prime Minister interviewed on the Insiders program yesterday morning when, in a tone almost of exasperation, he said:

Can somebody please tell me how, in substance, the sedition provisions in the counter-terrorism bill are different from the sedition laws that we’ve now had for many years? I’ve heard all this talk, particularly from media people, about how we’re introducing these draconian, anti-free speech laws, yet in substance, the provisions in the counter-terrorism bill are no different from the sedition provisions in the crimes act.

Prime Minister, you are wrong in one respect. The sedition provisions in the new bill contain protections of freedom of speech that do not exist in the Commonwealth Crimes Act. The sedition provisions of the Commonwealth Crimes Act have remained substantially in their current form—sections 24A to 24F—since 1920. In the defences in the existing Commonwealth Crimes Act, in sec-
tion 24F, there is no blanket protection of political speech—but there will be now. That is the material change. In Mr Bret Walker’s words, it is a very significant change. So do not let anybody con us by saying that the sedition provisions change Australian law in a new and draconian way. The only significant material difference is to introduce a powerful new protection of freedom of speech which was not there before.

I have said before, and it is not a view from which I resile, that generally the sedition laws are an archaic law. I was reading my Holdsworth’s *History of English Law* over the weekend. Holdsworth, in volume 8, describes the history of the sedition laws. He particularly describes their development in the early 17th century, in a judgment of Lord Chief Justice Coke, *De Libellis Famosis*, as the case was called. These are very old laws. They have not been enforced in Australia for 50 years. But the purport of the laws, when they were being developed in Stuart England, is the same policy purpose which we feel in a different context today: the need to protect our institutions from politically motivated violence. Mr Turnbull and I have expressed the view that the ancient wording of the laws that have come down to us from the mists of time in the history of English law should be updated.

I am pleased to say that the Attorney-General has adopted the alternative recommendation of the Senate committee, that the Australian Law Reform Commission should have a good look at these. But the substance of the issue—whether or not politically motivated violence should be a crime against Australian law—is, I think, something that all of us would acknowledge and we would all seek to have those laws drawn in a way that makes it perfectly clear that freedom of political expression is not affected. How those laws are ultimately to be drawn is really a draftsman’s question, which the Australian Law Reform Commission will address in due course. I will contribute to that discussion. But when those recommendations come to the government be in no doubt about two things: first of all, that politically motivated violence will be prohibited in this country, as it should be, and, secondly, that the freedom of speech which is our inheritance will always be guaranteed.

**QUESTIONS WITHOUT NOTICE**

**Welfare to Work**

*Senator McEWEN (2.00 pm)*—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Can the minister confirm that the government’s policy is that a parent whose youngest child is seven years of age should receive a welfare payment of $488.90 every fortnight? Can the minister also confirm that, under the government’s policy, when a single parent’s youngest child turns eight, the family should get a welfare payment of $437.60 each fortnight? Why does the government’s policy cut a single parent family’s fortnightly income by $51.20 from the day the youngest child in that family should be celebrating their eighth birthday? What happens on a child’s eighth birthday that makes them and their family less needy?

*Senator ABETZ*—To assist the honourable senator, I indicate that there will not as of necessity be a cut in the parent’s income. As I have indicated time and again in this place, this policy of ours, the Welfare to Work policy, is a well-rounded strategy that has three important components to it. The first is the welfare payment. The second is the $3.6 billion investment that we are making in these individual Australians to enable them to make the transition from welfare to work. If the honourable senator does not understand the importance of making that transition, I respectfully recommend paragraph
1.01 of the minority report of the Senate committee for her attention, where even the likes of Senator Wong acknowledged the very important factor that engagement in the economic process is for individual Australians. So that is a very important factor in our consideration and that is why we are investing $3.6 billion in these individuals to enable them to make that transition. The third part of our well-rounded package is the new taper rate, which will allow the single parents of this country to engage in employment without it impacting as severely as it has done in the past on their welfare payments and benefits.

What we have is a capacity and, might I add, it is in a market where there is a job shortage. And, of course, it is on the basis that these individuals are able to undertake employment for 15 hours or more per week. We think that will be of benefit not only to the single parent but also to the children, because, if there is one social statistic that should haunt every parliamentarian in this place, it is the social disadvantage confronted by children who live in a household where no parent has employment. Because we on this side are haunted by that social statistic, we are willing to make the necessary policy changes to enable parents out of welfare into work.

Once again, I raise a challenge for those on the other side to come forward with an alternative policy. At this stage, all we have from the other side is welfare to nowhere. But, of course, that should not surprise us because when we came up with waterfront reform, the opposition opposed it. When we come up with any reform—

Senator Wong—Mr President, I rise on a point of order. I think the minister has one minute left. He was asked by Senator McEwen a very specific question: why the eighth birthday means that a family should experience an income cut of $51.20. I ask you to remind him of the question.

The PRESIDENT—Senator Abetz, you have 53 seconds left and I remind you of the question.

Senator ABETZ—The big dispute between the opposition and the government is that, as we have pointed out to the Labor Party, all they ever do is oppose, be it on waterfront reform or, indeed, welfare reform or industrial reform. Their only policy alternative, like it was with the GST, is to oppose. There is no alternative policy to assist in driving the necessary reforms to enable the mums and dads on welfare to make the transition from welfare into work, and that is what we are pursuing by this policy.

Senator McEWEN—Mr President, I ask a supplementary question. Does the government’s policy mean that it thinks it costs $1,300 per year less to feed and clothe children once they are eight years old? What other expenditure does the government expect single parents to cut once their kids are over eight years of age?

Senator ABETZ—With respect, the honourable senator either does not get it or does not want to get it. It is quite clear that, once a child is at age eight, it is going to be at school for the vast majority of its waking time. As a result, there is the opportunity for the mum or the dad to actively seek employment, and that is what we are doing with the $3.6 billion investment in these people to assist them into work and to assist them to get into the mainstream of the Australian community. That is what this is all about. The Labor Party somehow think that, if they throw money at a welfare recipient, they can wash their hands and say, ‘We’ve done our duty.’ We say that is not good enough. We want to invest in each and every one of those individuals to ensure that the children who grow up in that household have the same
sorts of benefits as other children. (Time expired)

Workplace Relations

Senator TROETH (2.06 pm)—My question is to the Special Minister of State, Senator Abetz, representing the Minister for Employment and Workplace Relations. Is the minister aware of any recent reports that demonstrate the Howard government’s success in fostering job creation in Australia, especially in regional Australia? Will the minister outline to the Senate the findings and implications of a recent report into the future of Australia’s work force? How is the Howard government responding to these reports? Is the minister aware of any alternative policies?

Senator ABETZ—I thank the honourable senator for her thoughtful question. We on this side would expect nothing less from such a distinguished chair of the Senate committee on these matters. I am aware of two recent reports that demonstrate the government’s achievements in fostering job creation. The first shows that in the month of November internet job advertisements jumped two per cent—and this at a time when, traditionally, those ads would be on the decrease. Newspaper job adverts increased as well. So why is this happening? Could it be that, as we have been saying all along, with the prospective removal of Labor’s crazy unfair dismissal laws, employers are less reluctant to put on new staff? I am also aware of DEWR figures that show that unemployment is continuing to fall in regional Australia. Almost 80 per cent of regional areas now have lower unemployment rates than they did 12 months ago. Better still, almost two-thirds of them have rates of less than five per cent, which is four times better than Labor could achieve—only a paltry one in six areas had rates below five per cent in 1996.

The government have consistently promised the Australian people more jobs and better pay, and we have delivered. But what of the future? A recent report entitled *Workforce tomorrow: adapting to a more diverse Australian labour market* shows that Australia faces a shortfall of 195,000 workers in five years time as a result of our ageing population. This report also shows that, while employment is expected to continue to grow at a solid pace over the next five years, the ageing population and resulting shortfall of workers will prejudice this growth. What does all this mean? In simple terms it means that in the near future there will be significantly fewer workers in Australia than there are today to fill the available jobs. As a result, workers will be in even more demand. In short, the job market of Australia’s future will be a workers’ market, not an employers’ market. This report also highlights the need to increase participation in the work force. Hence, our Welfare to Work package. Not only will individuals benefit from moving off welfare and into the work force; so too will the community at large.

I was asked about alternative policies. There are two that spring to mind from those opposite. The first is ‘rip-up’. The other is ‘welfare to nowhere’. Mr Beazley himself acknowledged that the Labor Party is a policy-free zone in the area of industrial relations when he said that the industrial relations lemon had been squeezed dry—no need for further reform; therefore, you can be policy lazy this area. As a result, what a great appointment Mr Stephen Smith is to the shadow portfolio. There are no solutions to encourage people off welfare and into work. Labor have nothing. All they do is oppose. But the government have delivered on jobs in the past. We are still doing it now, especially in rural and regional areas, and we are the only party with the capacity, the ideas and the policies to deliver more jobs and bet-
ter pay for Australians in the future. (*Time expired*)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw to the attention of honourable senators the presence in my gallery of a parliamentary delegation from the Republic of Indonesia, led by Professor Muhammad Surya, Chairman of the Education, Religion and Health Committee of the Indonesian Senate. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to our Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Welfare to Work

Senator WORTLEY (2.11 pm)—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Can the minister confirm that, under the government’s policy, a single mother with three dependent children who starts getting welfare on 30 June 2006 will get the pension until her youngest child turns 16? Can the minister also confirm that, under the government’s policy, a second single mother with three dependent children who starts getting welfare three days later, on 3 July 2006, will get the pension only until her youngest child turns eight, after which she will get the dole? Why does the government intend to treat two similar families so differently by paying one $1,300 less each year?

Senator ABETZ—Once again, the Labor Party are on with their old mantra, which is wrong. They seem to think that the more they repeat the falsehood the more acceptable it might become within the community at large. Mere repetition of an assertion does not obviate the need for a factual basis to that assertion.

Senator Chris Evans—Why is it wrong?

Senator ABETZ—Allow me to repeat, for the benefit of Senator Chris Evans, what I have said in the past. There is the $3.6 billion investment in the second mother that was referred to and the more beneficial taper rate. We as a government believe that, when you add those together, the mother with the children who was referred to will be just as well off, if not better off, because there will be a real emphasis on encouraging that parent into work. As I have indicated time and again in this place, all the social data indicate the importance of having a parent in the work force if you want to give the kids of that household a good future.

As I indicated in a previous answer to a very good question from Senator Troeth, there is anticipated to be a 195,000 job shortage in Australia over the next five years. What we need, if at all possible, are Australians on welfare to fill those jobs. Here are real job opportunities going begging, so why should the government not be investing in those people on welfare so that they can make the transition and take up those 195,000 jobs that are anticipated to be going begging within the next five years or so?

What we are saying is that there was a need to change the welfare system and culture in this country. We said that there should be a cut-off date, after which things change, so, to use the term, we grandfathered a certain section of the community and, after that, we are moving into a new era which has a $3.6 billion package attached to it, together with a new taper rate which will make it more beneficial for people to get into the work force. Combined with the job climate now within Australia, it should be possible for people to make that important transition, not only for economic reasons but also for the very important social regions, as I have indicated previously. If we are genuinely concerned about the next generation of young Australians, we should do everything...
within our power to make sure that they have the opportunity of growing up in a family unit where at least one of the parents is engaged in the employment market. That is why we are expending $3.6 billion to that end. Not only is that going to benefit the individuals who make the transfer to work but also, very importantly, it is going to be a great investment in the future of our children.

Senator WORTLEY—Can the minister indicate what expenditure the government intends to cut for the second family in my example compared to the first family?

Senator ABETZ—I do not accept the assertion that the second family will be worse off. Indeed, in a society where there are job opportunities, where these individuals are going to have money spent on them and invested in them to enable them to take up the opportunities of the work force, together with the new, more generous taper rates which will encourage them to make that transition, there is every possibility, every expectation, that these families will indeed be better off.

Welfare to Work

Senator HUMPHRIES (2.17 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 inform the Senate of the continued efforts of the Howard government to assist more people to gain employment? Is the minister aware of any alternative policies?

Senator PATTERSON—I thank Senator Humphries for his question. I would also like to thank him for the work that he undertook chairing the recent Welfare to Work committee inquiry. The Howard government believes that the best form of welfare is a job and the best way to support families is to provide them with real choices and to encourage their participation in the work force and in the community. Jobs are important to Australians. Having a job allows all Australians not only to share more fully in our nation’s prosperity but also to contribute to it. Employment also contributes more widely to our society, our communities and our families.

This government has created around 1.7 million new jobs. The many ways in which employment is important to Australian families have been highlighted in the findings of the first wave of the Longitudinal Study of Australian Children. Over 70 per cent of parents agreed that working made them feel more competent, with half specifically indicating that their working had a positive effect on their children. Since the election of the Howard government, the number of children in jobless families has halved—a figure that was highlighted in the recent Australian Institute of Health and Welfare report, Australia’s welfare 2005.

Following the historic vote last Friday on the Work Choices legislation, the government is keen to continue its efforts to get people into the work force. Friday’s vote was a good outcome for the future strength of the Australian economy, and a strong economy is the only true guarantee of job security and future higher real wages. Without touching on the specifics of the Welfare to Work package, it is about providing the incentives and support necessary to encourage greater participation. It is about supporting people, otherwise they are languishing on pensions, into paid work. In 2005, in the budget this year, the Howard government announced nearly 88,000 new child-care places. We will be providing incentives and assistance to people to move off welfare and become financially independent and involved in their community. These incentives are also about finding employment for the people unrepresented in the labour market.
I am also pleased that this government is supporting people with a disability into employment. You cannot put a price on that. I am impressed by people with disabilities who have got out there and participated in employment to prove their critics wrong. These people have shown that it is now their ability, not their disability, that counts. Last week, I attended the 2005 Prime Minister’s Employer of the Year Awards and was delighted to see the proactive programs that had been developed by companies to support disabled people into employment.

I was delighted to share a table with representatives from HM/GEM Engines of Dan- denong in Victoria. People with a disability employed by GEM Engines move around and work in many different areas of the company and have external case managers. Staff with a disability are paid at the same rate as other staff. The average length of employment for staff with a disability is an impressive nine years and three months—one gentleman at the table had worked for that company for 27 years. Another impressive company is Perth Regional Roof Trusses. Half of its staff are hearing-impaired and all staff attend a 10-week sign language training program. Both of these companies were national winners last week and I applaud their innovative programs. I congratulate all of the companies recognised last week. I am pleased to say that this government will not forget people with a disability and commends those companies. A number of us were present, but I think all of us would say what a tremendous job they are doing in ensuring that people’s abilities, not their disabilities, are focused on.

Welfare to Work

Senator GEORGE CAMPBELL—My question is to Senator Abetz, the Minister representing the Minister for Employment and Workplace Relations. Can the minister confirm that the government’s policy is that the financial support it gives to people with a disability considered capable of working 16 hours a week will reduce by $84.40 a fortnight for people who start getting welfare after 1 July 2006? Why does the government’s policy assume that a person who acquires a disability in the future should be able to make do with $84.40 less each fortnight compared to the people who acquired a disability in the past?

Senator ABETZ—Mr President, there is not much imagination in the Labor Party question time committee, is there? We have had very similar questions today, virtually word for word, and I am willing to respond, word for word, in relation to the government’s approach to this area.

There is one difference here in that Senator George Campbell refers to the disability area. For a start, as I have pointed out many times now, this government is concerned to concentrate on people’s abilities rather than their disabilities. So we are saying to those who are disabled, ‘Let’s see whether or not you are able to work for 15 hours a week or more, and if you are, we want to engage you in the employment market.’ Why do we want to do that? For all the social data reasons that I have outlined before. All the studies indicate that, not only for the individual concerned but for the children who might be growing up in the household, it is so much better for an individual to be engaged in the mainstream economy through employment.

Indeed, we believe that the best welfare policy, the best welfare payment, that a government can deliver to the people is the opportunity of a job so that they are in fact masters of their own destiny. Those on the other side would just throw money at them and say, ‘We have done our duty; we no longer have to invest in them.’ There are many people currently on the disability sup-
port pension who have come to an expectation that life would continue as it is. As a result, in general terms, we have grandfathered those people within the community. But for the future, we want to see a situation arise where people who do have the capacity to work for 15 hours or more engage within the work force. That is going to have some very real benefits for not only those individuals but also the people in the family unit in which they live.

Once again, my challenge to the Australian Labor Party is: for once, don’t just oppose; tell us what your strategy is and why the labelling of your welfare policy of ‘welfare to nowhere’ is wrong. The Australian Labor Party, as with industrial relations, as with GST, as with the waterfront, has no alternative policy to deliver to the people of Australia. All it has to offer is opposition. Any party that wants to be the alternative government of this country does have to come up with alternatives—unlike the Greens, who, of course, we now know, oppose everything. But it looks as though that little visit to the forests by Dr Brown and Mr Latham has had an impact in other areas as well—that is, to be policy lazy, oppose everything and attack everything the government does, without putting forward decent alternative policies. That is the challenge for Labor—to rise above the mantra of the Greens and show that it is capable of putting forward a blueprint for the future of this country.

Senator GEORGE CAMPBELL—Mr President, I ask a supplementary question. Can the minister again try to explain why the government’s policy assumes that disability will become less costly to manage after 1 July next year? Why does the government intend to pay a person who acquires a disability after 1 July 2006 $2,200 less each year than a person who acquired the same disability before that date? Have a go again, Senator Abetz.

Senator ABETZ—Senator George Campbell must be suffering from some sort of work fatigue because he was already sitting down by the time he had finished his question so I did not catch the last part of it. I suppose that asking somebody from the Labor Party to be on their feet for a minute to ask a question does strain them somewhat.

Senator George Campbell—Mr President—

The PRESIDENT—I think the senator heard the supplementary question, Senator Campbell. I think the words were ‘have another go’ or words to that effect.

Senator ABETZ—Mr President, they become very sensitive, and I can understand why—because they have no alternative to deliver to the people of Australia and to the disabled people of this country—

Senator Wong—Mr President, I raise a point of order as to relevance. The supplementary question was specifically about why the government thinks paying somebody with a disability $1,300 less a year is appropriate.

The PRESIDENT—Senator, what is the point of order about—relevance?

Senator Wong—My point of order goes to relevance. The minister has not even got close to answering the question.

The PRESIDENT—I take your point of order. Senator Abetz, you have 25 seconds left to be relevant.

Senator ABETZ—In fact, Senator Campbell asked me to try again. I was not interrupted in my four-minute answer beforehand, so I was anticipating that he was wanting me to expand on my previous answer. If the previous answer was relevant, clearly my answer to the supplementary question must have been relevant as well. We
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seek to concentrate on people’s abilities, not on their disabilities. (Time expired)

Environment

Senator EGGLESTON (2.27 pm)—My question is to the Minister for the Environment and Heritage, Senator Ian Campbell. Will the minister advise the Senate how the Howard government’s strong economic management is delivering better environmental outcomes across the board for the benefit of current and future generations of Australians. Is the minister aware of any alternative policies?

Senator IAN CAMPBELL—I thank Senator Eggleston for a question on what I regard as a pivotal and important question for Australia—that is, how you deliver sound economic outcomes, how you deliver sound economic growth, and what the impact of that is on the environment. Today is a particularly important day to focus on that. I will be going to Montreal to lead Australia’s delegation to the United Nations Framework Convention on Climate Change.

It is very important that the people of Australia are very proud of the leadership that Australia has taken on climate change issues. That leadership would not be possible unless you had a strong economy and strong economic growth. From the time of the Kyoto protocol first commitment period, from 1990 through to about the year 2021—about 31 years from the beginning of the first commitment period—the Australian population is estimated to grow by around 37 per cent, a massive increase. During the time of the first commitment period—1990 through to about 2012—the Australian economy will double in size. We will see the economy go from about a $500 billion economy to a $1 trillion economy. So there will be incredibly strong economic growth and strong population growth, and during the first commitment period we will achieve our Kyoto target of 108 per cent.

So we have achieved an historic delinking of economic growth from the environment. It is very important that we have the strong economic growth that the Howard-Costello government has delivered for Australia—strong job security, low interest rates and, of course, surplus budgets in the Commonwealth. You could not deliver the sort of environmental results that we have for Australia if you did not have strong economic management.

The Minister for Industry, Tourism and Resources, Minister Macfarlane, and I announced today nearly $200 million worth of program commitments in the area of renewable technologies. We announced the shortlist in the solar cities program with $75 million to move entire suburbs across to photovoltaics and solar technology. We announced $20.4 million worth of investment in electricity storage—advanced storage systems—so that when we move to photovoltaics and wind energy, we can bridge one of the gaps, and that is to store the energy when the grid does not need it.

The third program we announced today was the first $23 million out of $100 million worth of renewable energy development initiatives such as grants to companies like Solartech in Western Australia that will be exporting throughout the developing world new technology in plastic hot water systems so that developing countries can be at the head of that. This is on top of historic investments in other parts of the environment: $100 million to save the Great Barrier Reef—a plan the Labor Party and the Greens would tear up; $255 million to save the Tarkine and Tasmanian forests with a strong and robust jobs outcome; and, of course, $220 million for historic fisheries reform. I would argue that this year we have spent more money on
the environment than any Australian government has ever spent before. That is because the Howard-Costello government has delivered strong economic management that gives us the wherewithal to create fantastic results for Australia’s unique environment.

National Security

Senator NETTLE (2.32 pm)—My question is to Senator Hill, the Minister representing the Prime Minister. Has the senator read the full-page advertisement from the Law Council in today’s newspapers regarding the antiterrorism laws which reproduces a letter to the Prime Minister that was sent on 3 November describing the laws as draconian and stating its objection to control orders and preventive detention? Why has the Prime Minister not replied to this letter from an organisation representing the whole of the Australian legal profession? Is the government now so arrogant that even the peak body of the 50,000 lawyers in this country will not be responded to?

Senator HILL—If the legal profession wish to act collectively through an organisation to put a public view, they are entitled to do so. I would suggest to the honourable senator that the advertisement does not necessarily reflect all within the legal profession. It is put under the heading of the Law Council and thus certainly reflects the view of some. It is legitimate for the grouping that wishes to be identified as such to put their views through the press if that is the way in which they want to contribute to the public debate. It is part of our democratic system and it has obviously influenced some, including Senator Nettle, because she has taken note of it and has asked this question.

The bottom line is really the attitude of this parliament, or the people of Australia through this parliament, which we will soon see after a long and deliberative process of development of the legislation, consideration by a learned Senate committee and then debate in the parliament, both in principle in the second reading debate and in committee, still to follow. From the government’s perspective, I hope that the outcome of that will be that the legislation passes and that the government is better equipped to protect the public interest in the unfortunate circumstance that we find ourselves the target of global terrorism.

The government has the responsibility to safeguard the Australian people. It is the primary responsibility of government. We seek to do that with the minimum loss of civil liberties but we recognise that, in the extraordinary circumstances of effectively tackling terrorism, sometimes it is necessary to make sacrifices to provide a balance that can achieve the safety which, as I said, we regard as paramount. The views of all will be taken into account in this debate, whether they are outside this chamber or within the parliament. But, in the end, the parliament will make a decision on behalf of the Australian people and, as I said, on the government side we hope that is to endorse the government’s program, which has been put to the parliament for very careful consideration, particularly to ensure that it minimises losses of civil liberties.

Senator NETTLE—Mr President, I ask a supplementary question. I ask again: why has the Prime Minister not responded to this private letter that was sent over a month ago? I further ask: does the minister agree with the words of Winston Churchill reproduced in the Law Council advertisement today which states that:

The power of the executive to cast a man into prison without formulating any charge known to law, and particularly to deny him the judgment of his peers, is in the highest degree odious and is the foundation of all totalitarian government whether Nazi or Communist?
The PRESIDENT—That question skates very closely to being a non-supplementary question, but I will allow it.

Senator HILL—Perhaps the government is focusing on the 88 innocent Australians who were killed while enjoying a holiday in Bali. They were out in the evening enjoying themselves; innocent Australians—men, women and children—who were slaughtered by those who sought to use them as political pawns in an international terrorist operation. The Australian government believes that we should do all within reason to protect Australians from this sort of threat. If it means that there will be a loss of some civil liberties, so be it. We will ensure that it is the minimum loss possible consistent with our responsibility to protect the lives and wellbeing of the Australian people.

Forestry Policy

Senator BARNETT (2.37 pm)—My question is to the Minister for Fisheries, Forestry and Conservation, Senator Ian Macdonald. Is the minister aware of any recent endorsements of the Howard government’s forest policy and any recent moves to support a continuing and strong forest industry in Australia? Is the minister aware of any alternative policies?

Senator IAN MACDONALD—As a Tasmanian senator, Senator Barnett will know well that the Howard government have a very strong forestry policy. We are absolutely committed to an ecologically and economically sustainable industry. We want a secure resource base underpinned by the RFAs. We want to reverse the $2 billion trade deficit in forest and wood products. We absolutely want to support timber workers. We want to make sure that rural communities continue. We want to support certification of sustainability, to put forward the lies and dishonesty of the attitude of the Greens political party when it comes to our sustainable forests.

It is a policy that has been supported by the Australian people. Mr President, you will recall that the workers of Australia flocked to the Howard government at the last election. We all remember that photograph of John Howard being embraced by workers at the Tasmanian announcement just a few days before the election. What a contrast that photo was to the photo of the then Labor leader, Mark Latham, who chose to be photographed hugging a tree with Senator Bob Brown—obviously one of Senator Faulkner’s seminal political strategies.

That policy actually gave us two new excellent members from Tasmania in the lower house. It delivered us Senator Parry here in the Senate and saw the very enthusiastic return of Senators Abetz and Barnett from Tasmania. It was a very good policy. I was absolutely delighted last week to see the Labor Party spokesman Martin Ferguson—

Senator Ludwig—Mr President, I rise on a point of order. I do not want to take a point of order on relevance, because it knocks one of our questions off. But, in this instance, he has even failed to address his own dorothy dixer. Can you, Mr President, bring him back to his own dorothy dixer?

The PRESIDENT—The minister has two minutes to complete his answer.

Senator IAN MACDONALD—The Labor Party obviously want me to highlight the comments by Martin Ferguson, the Labor Party forestry spokesman, last week, when he said:

The campaign being run by the Greens is aimed at capturing votes—it has nothing to do with the environment or sustainability, and above all, it is dishonest.

He went on to say:

... the Australian Labor Party supports the Tasmanian Community Forest Agreement ...
But that was a week ago. Since then, there has been no statement from the Labor Party environment spokesman, Mr Albanese. Remember that Mr Albanese was the guy who said after the last election that Mark Latham’s policy was absolutely right when it came to Tasmanian forests. The only thing that was absolutely right, I have to say, was that a union leader labelled Mr Albanese as ignorant.

Whose policy is right? Is it Mr Albanese’s or Mr Ferguson’s? The best way to check it out is to go to the ALP web site. So I went there to look at their policies. What does the ALP have as policies? Four one-paragraph blueprints—no policies, blueprints. They are one paragraph each. Mr President, not one of those blueprints is on forestry—not one. What are the people of Australia going to get before the next election in relation to Labor’s approach to forestry? Will it be a blueprint, will it be a ‘greenprint’ or will it just be another Bob Brown print?

Mr Oday Adnan al-Tekriti

Senator LUDWIG (2.41 pm)—My question is to Senator Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs. Can the minister confirm reports that one of Saddam Hussein’s former bodyguards, Oday Adnan al-Tekriti, is now living in Australia? Can the minister advise whether Mr al-Tekriti is in Australia lawfully? If Mr al-Tekriti is in Australia lawfully, on what basis was he given a visa to be in this country? What is the time period of Mr al-Tekriti’s visa, and has he applied for permanent residency in Australia?

Senator VANSTONE—The answers to the questions are yes; yes; as a consequence of ruling by the AAT; a temporary protection visa; and yes, he has applied for a spouse visa.

Senator LUDWIG—Mr President, I ask a supplementary question arising from those answers. Is the minister concerned that Mr al-Tekriti may be wanted as a war criminal by the World Tribunal on Iraq? Is the minister concerned that Mr al-Tekriti’s past affairs seriously undermine the integrity of Australia’s immigration system?

Senator VANSTONE—I will say two things in relation to that. Firstly, I will make further inquiries, as is normal and good practice when things are raised through the media. But I am particularly concerned that the opposition spokesperson apparently does not understand the difference between someone being denied a visa on character grounds and someone perhaps being denied a visa in the first instance because of the 1F grounds, with which you would be familiar, Senator. There is a difference between that and someone actually being a war criminal. An immigration decision where someone takes into account what they believe to be the case is quite another thing from a decision that is made to pursue a war criminal prosecution.

Senator Conroy—So nothing has gone wrong?

Senator VANSTONE—I notice the interjection from Senator Conroy. I am not sure if he knows anything about this matter. Certainly, nothing I have heard him say indicates that he does. I can, however, assure the Senate that proper process has been followed.

Senator Conroy—Everything’s okay? You’re happy?

The PRESIDENT—Order!

Money Laundering

Senator MURRAY (2.44 pm)—My question is to the Minister for Justice and Customs. Minister, is the government concerned about a reported $5 billion moving out of Australia every year to tax havens around the world? Can the minister tell the Senate why the government has dawdled for two years over a bill needed to combat money launder-
ing and counter the financing of terror? Can the minister allay fears that the proposed bill has been delayed partly because it will affect high-profile influential figures who have improper involvements with tax havens?

Senator ELLISON—In relation to the financing of terrorism and money laundering for criminal activity, recently I had a videoconference with the director of FinCEN from the United States, who said that Australia’s measures were some of the best in the world. In fact, AUSTRAC, he said, was gold-plate practice for monitoring the movement of money, be it for the purposes of terrorism or crime. We have been working with industry and the financial sector in particular on a draft anti money laundering bill. I hope to have that out in the very near future. By that—

Senator Sherry—You said it would be out by the end of November!

Senator ELLISON—I am looking to the next fortnight. Can I say that in no way has there been any influence whatsoever exercised to avoid this action being taken or to avoid the initiative by the government in relation to anti money laundering measures. In fact, all I have had is cooperation from the financial sector. What we did decide initially in response to the 40 recommendations by FATF and the subsequent nine antiterrorist recommendations was that we would deal with it in two tranches. We would deal first with financial transactions and second with the accountants, lawyers, jewellers and real estate agents. That is a path that other countries have taken. In particular, the United States is doing a step-by-step approach. I can say that we are on track with our anti money laundering strategy.

Senator Ludwig—No, you’re not!

Senator ELLISON—Yes, we are. What we have in parliament today is an antiterror bill which has financial provisions in it dealing with the financing of terrorism. In relation to tax havens, we have the Australian Crime Commission participating with the tax office and working overseas on tax havens. Operation Wickenby is the example I am using here. It is alleged that over $300 million is involved in tax evasion. This has been one of the biggest operations we have seen on alleged white-collar crime. I am happy to report that we have received cooperation overseas from Switzerland and other countries such as the Virgin Islands and such, and we have been working with them. That spells out an example of operational activity—one of the largest we have ever seen in relation to white-collar crime in this country. We have an anti money laundering strategy. As to antiterrorism, the antiterrorism bill is before parliament today. In relation to the draft bill, which will encompass a wider area, I anticipate that it will be out within the next fortnight.

Senator MURRAY—Mr President, I ask a supplementary question. Minister, in view of the fact that you say you will introduce this bill within the next fortnight, could you consider giving a reference to the relevant Senate committee to examine the bill immediately so that its passage is not delayed by having to be reviewed once we sit again in February next year? Can the minister assure us that rapid passage and rapid consideration with respect to this bill will be made possible?

Senator ELLISON—I have always said that it was an exposure bill for comment. That is exactly what I said. Senator Murray is saying that I said it is for introduction. It is not. It is an exposure bill, which I have said from day one that we would have. That exposure bill will be out for comment over the next four months—and we have Christmas and the holiday period coming up—because the industry has asked for that. We are going to then have a bill for introduction, which
will be dealt with by a parliamentary committee. We hope to have this bill introduced within the next six months, in the first half of next year, and we will make it law.

**Foreign Debt**

*Senator SHERRY (2.49 pm)—*My question is to Senator Minchin, the Minister representing the Treasurer. Does the minister recall the comments of the Treasurer, Mr Costello, in September 1995, when he said: Australia has high foreign debt, and because Australia has a current account problem that puts premium on the Australian borrowings that flows through and every Australian pays the consequences. He made many other comments like that. Can the minister confirm that Australia’s foreign debt now stands at $450 billion—more than double the $193 billion in debt that existed in 1996 when the Liberal government was elected? Why has the Liberal government so comprehensively failed to deliver on its promise to reduce Australia’s foreign debt?

*Senator MINCHIN—*It so happens that I was just reading an article headed, ‘Foreign debt question: it’s not a problem,’ by two economists from Monash University. I would recommend that Senator Sherry also look at it. That article makes the point that much of the hysteria about the current account back in the late eighties and early nineties led to Mr Keating’s ‘recession we had to have’.

In relation to foreign debt, there are a couple of points that ought to be made. The first, most obviously, is that this debt is overwhelmingly held by the private sector. Because of this government’s outstanding fiscal policy, its resurrection of the budget’s position back into surplus and the substantial surpluses it has been able to produce, the foreign debt now is overwhelmingly held in private hands and the government is a net contributor to savings in this country.

The second point to make, I guess, concerns the question of our capacity to service the debt. I think these are salient points. The debt-servicing ratio in the September quarter actually fell from 9.4 per cent to 9.3 per cent compared with the debt-servicing ratio under the previous Labor government, which peaked at 20 per cent—more than double the current debt-servicing ratio—in the early 1990s. I think those are relevant points in any discussion of the position.

I do not recall exactly the comment made by the current Treasurer back in 1995. But we quite rightly pointed to the problem of the debt-servicing ratio that arose under the Labor government and the fact that Labor’s profligate spending was contributing to that because of the huge deficits which the Labor government was running. In fact, it racked up some $70 billion in debt in its last five budgets, thus exacerbating the problem and exposing Australia.

We have ensured that, from the public sector’s point of view, we are contributing to savings by delivering surpluses—which are a necessity, particularly when the economy is growing the way it is; that is the time when the government should be running surpluses—and that foreign debt is held by the private sector and our national capacity to service it is appropriate. As I said, we must avoid any hysteria about this which would produce the sort of recession which Labor induced in the early 1990s, throwing thousands of Australians onto the unemployment scrapheap.

*Senator SHERRY—*Mr President, I ask a supplementary question. Hasn’t Australia’s massive foreign debt resulted from a widening current account deficit? Didn’t this deficit dramatically widen in the September quarter from an estimated 5.2 per cent to 5.9 per cent of GDP? Hasn’t the credit-rating agency Standard and Poor’s been warning
that Australia is now more vulnerable than comparable countries and that our economic stability is under threat? When will this lazy and complacent Liberal government recognise and admit that foreign debt is now a major economic problem, let alone do something about it?

Senator MINCHIN—The most significant thing that the government can do is to ensure that this economy is able to compete internationally. We do that by a program of micro-economic reform, one of the most important elements of which is industrial relations reform. The opposition are totally opposed to that and now have the massive task of drawing up a whole new industrial relations system for this country. We cannot wait to see the opposition’s new industrial relations system, which they are going to have to devise and take to this country at the next federal election. Their economic credibility, which is already very shaky, will be right on the line. If you want to improve this country’s capacity to pay its way in the world, you will support the micro-economic reform program of this government, including necessary industrial relations reform.

Commonwealth Games

Senator RONALDSON (2.54 pm)—My question is to the Minister for the Arts and Sport, Senator Kemp. As a fellow Victorian, Senator, I note with great interest, anticipation and expectation that we are 100 days away from the start of the 2006 Commonwealth Games in the magnificent city of Melbourne, with a number of events to be held in equally magnificent regional centres throughout the state. Will the minister update the Senate as to the support provided by the federal government for this very important sporting event?

Senator KEMP—I thank my colleague Senator Ronaldson for that very important question. The senator has a longstanding interest in sport and many of us remember what an excellent shadow minister for sport he was in those dark days of the Labor government. Senator Ronaldson will remember the comments that Senator Lundy made last Thursday about the number of volunteers. I am able to assure Senator Lundy that the Melbourne streets will be crowded with volunteers and that her scare tactics, I am sorry to say, will have no effect whatsoever.

As Senator Ronaldson said, there are only 100 days to go before Melbourne becomes the international centre of the sporting stage. This is the 18th Commonwealth Games and it will be held from 15 March to 26 March next year. It will bring together some 4½ thousand sportsmen and sportswomen from 71 Commonwealth nations and territories. The Australian government, I am pleased to say, is proud to be supporting what will be Victoria’s—and Senator Conroy and Senator Carr will know this particularly—biggest ever sporting and cultural event. The Commonwealth government, on behalf of the taxpayer, will be providing some $290 million towards the running of the successful games.

While much of the attention, naturally and correctly, will be on the sporting events—and what a great range of sporting events there will be, as well as the chance to see so many great Australian sporting champions—it is worth noting that the Commonwealth Games will also showcase one of the biggest cultural festivals ever seen here in Australia. One of the things that we are doing is providing very substantial support for the Queen’s Baton Relay. Senator Campbell will know that just some days ago the Queen’s baton boarded the Antarctic research and resupply vessel, Aurora Australis, in Hobart as part of the international leg of the Queen’s Baton Relay.
The Queen’s Baton Relay is really one of the great traditions of the Commonwealth Games, and the Australian government, I am proud to say, is providing some $15 million to fully fund the staging of the international and Australian legs of the Queen’s Baton Relay. Senator Lundy, many volunteers will be taking part in that. Everywhere you look there will be young people, middle-aged people and senior people taking part in the Commonwealth Games, and the Queen’s Baton Relay is one of those events. Communities across Australia will have the chance to take part in the relay when it arrives in Sydney on 24 January next year for the 50-day relay covering all states and territories.

Perhaps one of the most interesting cultural events will take place during the opening and closing ceremonies, to which the Australian government is contributing, again on behalf of taxpayers, substantial amounts of funds. These events will attract a worldwide television audience, bringing a range, we believe, of national tourism benefits. Again, the ceremonies will involve thousands of volunteers from Australia and abroad, bringing to life many of the cultures of the Commonwealth. As Senator Ronaldson said, the streets of Melbourne and regional Victoria will host Australia’s biggest ever cultural festival of arts as part of the celebrations of the 2006 Commonwealth Games. It is a very important event. (Time expired)

Senator RONALDSON—Mr President, I ask a supplementary question. I think the minister was just starting to talk about some of the events in Melbourne and in regional Victoria. Could the minister expand on them in the time left?

Senator KEMP—Thank you, Senator Ronaldson, for your thirst for knowledge. That is one of the very commendable aspects of Senator Ronaldson.

The PRESIDENT—Order! I do not believe that was a supplementary question.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Nursing Home Safety Standards

Senator McLUCAS (Queensland) (2.59 pm)—My question is to Senator Patterson, the Minister representing the Minister for Ageing. I refer the minister to her answer to my question last Wednesday about fire safety standards in residential aged care facilities, in which she undertook to ask the Minister for Ageing for further details and to report back to the Senate. Has the minister now received advice about the sanctions that will be imposed on residential aged care facilities that do not comply with new fire safety standards by 31 December this year? What will these sanctions be? How will residents know if their aged care facility has failed to meet the required fire safety standards and whether it will be subject to sanctions? Can the minister also advise whether residents will be given the opportunity to leave facilities that do not meet fire safety standards?

Senator PATTERSON (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (2.59 pm)—I did have some further information from the Minister for Ageing to add to the answer I gave on 30 November. I seek leave to incorporate that document and I will draw the minister’s attention to the question to see if there is anything further she wishes to add.

Leave granted.

The document read as follows—

SENIOR JAN McLUCAS—My question is directed to Senator Patterson, representing the Minister for Ageing.
(a) Can the minister confirm that the department’s web site currently shows that over 1300 aged care facilities - that is almost half, almost 50 per cent, of all facilities - have not demonstrated compliance with the new fire safety standard?

(b) 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?

(c) How will the residents know if their facility has not met the fire safety standard and will providers be sanctioned?

**SENATOR PATTERSON**—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(a) Approved providers of aged care must meet their obligations under the relevant State, Territory and local government laws in relation to fire safety. In addition, all aged care homes must meet the Australian Government’s building certification standards if approved providers want access to the Australian Government concessional resident supplement or to charge residents accommodation bonds or charges. All aged care homes are already certified as meeting the 1997 Certification Assessment Instrument which includes fire and safety. Added to this, in 1999 the Government increased the certification standards relating to fire and safety.

The Department of Health and Ageing has advised all approved providers of aged care homes that have not yet notified that they meet the higher 1999 Certification Assessment Instrument fire safety requirements referred to in (a) have been advised by the Department of Health and Ageing in a series of letters and in industry publications of their responsibility to notify. The Department has made clear to approved providers their responsibilities, the requirements expected of them and the potential consequences which may include a review of their suitability to be certified should they not meet the 1999 Certification Assessment Instrument. The most recent advices were issued on 7 July and 17 November 2005.

(b) All approved providers of aged care homes that have not yet notified that they meet the higher 1999 Certification Assessment Instrument fire safety requirements referred to in (a) have been advised by the Department of Health and Ageing in a series of letters and in industry publications of their responsibility to notify. The Department has made clear to approved providers their responsibilities, the requirements expected of them and the potential consequences which may include a review of their suitability to be certified should they not meet the 1999 Certification Assessment Instrument. The most recent advices were issued on 7 July and 17 November 2005.

(c) The Department of Health and Ageing has in place a comprehensive information strategy to advise residents should any approved providers fail to notify the Department of compliance with the 1999 Certification Assessment Instrument.

**QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS**

**Welfare to Work**

**Senator WONG** (South Australia) (3.01 pm)—I move:

That the Senate take note of the answers given by the Special Minister of State (Senator Abetz) to questions without notice asked by Senators McEwen, Wortley and George Campbell today relating to proposed changes to welfare legislation.

What we have seen again in question time today is Minister Abetz portraying a complete lack of understanding of what the core of the government’s so-called Welfare to Work proposals is. The core of the government’s policy proposals in this regard is about putting vulnerable Australians onto the dole. They say it is welfare to work, but we and the community know it is dumping people onto the dole. It should be called “The Howard government dumping people onto the dole package”, not the Howard government Welfare to Work package. No amount
of spin and repetition from the minister can
hide that fact.

Senator Abetz, in answer to opposition
questions, said that we have got it wrong. We
want to know which part we have got wrong.
I remind the chamber of the answers that
have been provided by the Department of
Employment and Workplace Relations—the
department of the minister which Senator
Abetz represents—which make it clear that
171,000 Australians will be moved onto the
dole under the government’s policy. The
modelling for that was undertaken after the
adjustment for the number of people they say
will move into work. So, under the govern-
ment’s own figures, 171,000 people in this
country will be dumped onto the dole. They
have the gall to call this a Welfare to Work
package; it is a dumping onto the dole pack-
age.

We know that at least 77,000 sole parents
will move from a higher payment to a lower
payment by 2008—that is after taking into
account the number of people who will move
into work. There will be 77,000 families
worse off by 2008, with more to come. And
the minister did not provide any explanation
in question time today—or in fact ever, and
neither has anyone else in the government—
as to why a reduction in income to families
who are already vulnerable helps them get a
job.

We know there is an issue with jobless-
ness in this country. We know that it is not
good for young people to grow up in families
where there is no parent in a job. But the
core of the government’s package is some-
thing they have never justified or explained.
They have never explained to the Australian
people why it is that putting people onto a
lower payment will help them get a job.
What we had today in question time from
Minister Abetz was more of the same—
repetition of the same rhetoric without any
regard to the detail of the policy nor even to
the heart of the policy that he is supporting
and proposing. The heart of the govern-
ment’s policy is nothing more than a reduc-
tion in the incomes of vulnerable families.

We on this side of the chamber want to
know, as do many Australians, why it is that
a parent should suddenly be $1,300 a year
worse off simply because their child turns
eight. What an extraordinary eighth birthday
present from the Howard government to
these vulnerable families: to take $1,300 off
them per year because their child turns eight.
These families are already overrepresented
in the poverty statistics.

Which particular items of expenditure
does the minister suggest these families
should not undertake? Should the family buy
less food? Should the family buy fewer edu-
cational materials—fewer books and fewer
uniforms? Should they not worry about re-
placing school shoes or sport shoes? Should
they not let the children go on school trips or
cursions? What this government fails to
understand is that we are talking about fami-
lies who are already vulnerable. The gov-
ernment has never explained why it is that an
eight-year-old will suddenly cost $1,300 less
a year to support than a seven-, six- or five-
year-old.

When it comes to people with a disability,
many people in the community really have to
bite their tongue when they listen to Senator
Abetz saying, ‘We focus on ability.’ What an
extraordinarily cynical answer to a question.
The example put by Senator George Camp-
bell to Senator Abetz was one in which there
was $2,200 less per year for a person with a
disability because of the changes this gov-
ernment’s policies will introduce. The dis-
abled will have $2,200 less a year to live on
and to use to deal with the costs of disability,
which everyone in this chamber would agree
are significant. People with a disability have
had higher levels of payment because as a community we have recognised that there are costs of disability and barriers to employment which are particular to people with disabilities.

What Minister Abetz says is, ‘We want to have regard to their ability.’ That is an extraordinarily cynical statement. To lecture people about their ability when you are in fact removing one of their supports from them—when you are taking $2,200 a year off them, giving them less money to live on and less money to deal with the costs of living with a disability—is extraordinary cynicism from this minister. To say, ‘We believe in people’s ability,’ while taking money and the support that the money provides from people with a disability in Australia is extraordinarily cynical. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (3.06 pm)—I rise to note with sadness this manifestation of the sustained campaign of fear by the Australian Labor Party around these Welfare to Work changes. They are attempting to create a real sense of anxiety in the community. Indeed, much of what has been done by this government in the last 10 years has been accompanied by these kinds of scare tactics on the part of the Labor Party. For my part, I am going to focus on the positive things about this package—the ways in which it expands opportunities and demonstrates to Australians that we as a community care about those hundreds of thousands of Australian families, I think the figure is 800,000, that have someone not in work. With active change to the nature of the welfare system, we can produce real opportunities for employment for those people.

As I have repeatedly reminded those on the other side of the chamber, this is not a package designed to save money. This is about spending money to create opportunities—spending $3.6 billion to ensure that Australians who presently have only the prospect of welfare to look forward to have a real chance of making a transition from welfare into paid employment. I think it is impossible to overstate the value of that change. The value of being able to obtain real employment is very significant.

Members opposite ask, ‘Why should we reduce payments?’ The fact is that, as a community, we have a community standard for what we pay in income support to those people who are in the job market seeking employment. If a person—for example, a single mother, whose youngest child is now at school, who is freed from daytime caring responsibilities at home—is not disabled in some way that prevents them from entering the work force and has the capacity to work, why should they not be in the work force? Why should they not be seeking employment? If they are in the work force seeking employment, why should they not be receiving the community standard of income support in those circumstances? Why should they not be able to do that?

Senator McLucas—That is a cut, isn’t it?

Senator HUMPHRIES—It is what the rest of the community in the same circumstances receives, Senator McLucas, so why shouldn’t they? Why shouldn’t they be receiving the same amount?

Senator McLucas—It is a cut from what they are receiving now.

Senator HUMPHRIES—You are focusing again on the problems as you see them, failing to acknowledge that there are important opportunities being created by this package. You saw the figures produced to the committee. I do not know whether you read them, but you saw the evidence put to the committee about the correlation between the level of support being provided and the incentive to go out and seek employment. You saw those figures. You saw those figures
from the United States. You saw those figures from Denmark. They demonstrate very clearly that there is a correlation between those two things, and that is the kind of work which needs to be undertaken to understand the full extent of the package.

There has also been a myth perpetrated by those opposite that somehow people can be employed—they can be out in the work force—but still be poor. The evidence presented to the committee was very clear, that those in employment in Australia, even part-time employment, are far less likely to encounter poverty than those not in the work force. The figures, including figures done in 2004 by NATSEM, very clearly demonstrate that only two per cent of people whose main source of income was wages and salaries were considered to be in relative poverty.

That is the underpinning of this policy. That is our policy. That is how we are going to approach this obviously important social task of moving many hundreds of thousands of Australians into a position where they can obtain employment. What is the Labor Party's alternative? We heard in the course of the dissenting report tabled in the Senate last week that a national poverty summit is being proposed as the response to this. I can only quote what Mark Latham, the former leader of the Labor Party, had to say about this idea when it was last raised in 2001. He said:

Is this the low point in our five wasted years? A Crean-Swan press release today announcing that our election policy on poverty is to convene a summit ... They announced it at the ACOSS congress, so it's not hard to guess what sort of summit it will be—Left conservatism, ACOSS whingeing about all the things they don't like in the world. But not offering any answers, other than increased transfer payments. They just don't get it.

With great respect, Mr Deputy President, those opposite still 'just don't get it'. They do not get the fact that we need to re-engineer our welfare system to create opportunities and to provide incentives to make sure that we have a real expectation of work for people facing the prospect of long-term welfare. (Time expired)

Senator MOORE (Queensland) (3.11 pm)—I am going to lead in the way Senator Humphries ended his contribution—with a quote. It is a direct quote from the minister in responses that he made to the questions we were putting on record about our genuine concerns regarding the Welfare to Work package that is going to be before us in the Senate later this week. He said in answer that he was not sure whether we just did not get it or we do not want to get it. Increasingly, it is becoming clear that members of the government just do not want to get what the basis of our concerns are about. I am increasingly frustrated by hearing members of the government throw across this chamber the idea that, just because we raise genuine questions about the workings and impact of the package, somehow we are not genuinely concerned about ensuring that people have access to work.

The constant allegation is that we do not understand the process, we do not understand the need to give people support and we do not understand the genuine value of providing employment opportunities to anyone in our community but particularly to families and people who are seeking ways to improve their lives. It is not, as the minister said to one of our questions today, that we do not understand the importance of work. In fact, we do. There has been a consistent agreement about ways to support people in moving from consistent reliance on welfare to access to education and employment so that there is more opportunity for people in our community. But we consistently find that the—again using one of the minister's own words—mantra that comes across about the supposedly well-rounded package that is
going to be provided to people in our community does not address the key issue which we consistently raise from this side of the chamber, which is: while people are seeking the opportunity to access education and work, why is it somehow inherently better for them to have less money fortnightly for their needs?

If the government came straight out and said, ‘We’re cutting their money because—and this is why it will work,’ we might well disagree, but at least there would be an acceptance of the figures that are raised all the time by people in the community and by agencies that are working consistently in this area. Again, it is very disappointing that the government does not applaud and generally say that we can learn by talking to the people who have the best knowledge of what it is like to live below the poverty line and how people survive. As I have said before in this place, people who are reliant on welfare learn to live in the most amazing ways and are able to budget in ways that I do not think that I would be able to. We can only be amazed at the way they manage to survive.

We do not want to perpetuate any form of compulsory welfare in this country. Nobody wants that. What we are trying to find out is this: where in the government’s proposal is it that cutting people’s income will lead automatically to greater opportunity? That seems to be the bottom line of the package. We heard last week in this place that there was no need to include fairness in any discussion of fair wages because it was implicit in the legislation. Where is it implicit in the legislation that is going to come before us in the Welfare to Work package that taking money out of families’ livelihoods is going to make them better job ready or better education ready? What we have heard consistently from the minister is the mantra of the three-part payment, the three-part package that is going to be available—the welfare payment, the major investment in opportunities.

If you listened carefully to the minister’s responses today you would think that every single parent and person with a disability who will be caught up in the Welfare to Work package is going to have over $3 billion given to them to help them individually through the process. I am aware that that is not true. But it is said consistently that there is going to be no lack of income because there is going to be this major investment. One could say, ‘Up until now you have been able to receive a certain amount of money each fortnight, and after a magical date—’ and we consistently ask this question: what is so magical about one particular date such that people going onto payment in exactly the same circumstances will be treated so significantly differently? Where is that fair? Where does that provide incentive? Where can that be called just? (Time expired)

Senator ADAMS (Western Australia) (3.16 pm)—I think it is important for me to go back a little and mention the failure of Labor’s past attempts at welfare reforms. They have been very critical of ours and I think they should be reminded of what happened earlier. In May 1991 the Labor government introduced the Social Security (Job Search and Newstart) Amendment Bill. The bill was a Clayton’s attempt at reform—the reform you have when you are not really committed to reform, as we are. This included: the unemployed had to wait 12 months for any Job Search intervention; there was no date when an activity agreement had to be signed; and job seekers over the age of 55 did not have to report their job search activities—they were consigned to the unemployment scrapheap. We are certainly not doing this; we are trying to encourage our older mature workers to come back into the work force.
In November 1991, in a blatant and cynical attempt to artificially reduce the unemployment rate—there were nearly one million people unemployed—the Labor government introduced their disability reform package. This essentially consisted of moving many of the unemployed and invalid pension recipients onto a new payment called the disability support pension. The result of this was that in 1992 the disability support pension experienced a growth of 13.3 per cent. Labor simply gave up on the unemployed and consigned hundreds and thousands of working aged Australians to a sedentary and dead-end existence on welfare.

This government believes that the best form of welfare is a job. There are currently 700,000 children living in jobless households. This is not a good example for these children. They need to have someone in that household working. The Welfare to Work reforms will help break the cycle of inter-generational unemployment and social disadvantage. As part of the 2005-06 budget, the government announced the $3.6 billion Welfare to Work package to encourage and support welfare recipients who have the capacity, and are available, for work. We now live in an era when we do not so much have a shortage of jobs as a shortage of workers. In fact, it has never been a better time in Australia for those who want to work.

Despite Australia experiencing strong economic growth and much lower rates of unemployment since the Howard government came to office in 1996, this has done little to slow the growth in single parents and people with a disability on welfare. This situation highlights the problem of our current welfare system. The original income support system was designed for a very different world, where most jobs were full time, most employment was short term and mothers and married women did not work. Policies that were appropriate then are not suited to today’s Australia.

Currently, most working age recipients of income support are not required to seek work. Only 15 per cent of the 2.6 million working age Australians currently on income support are required to actively search for a job at a particular point in time. This reflects an outdated presumption in the welfare system that only those who can work full time must seek work. This is simply not sustainable, particularly given the ageing population and the fact that the nature of the job market has changed dramatically. With more casual and part-time jobs there are more and more flexible job opportunities available to parents and people with disabilities who do not have the capacity to work full time.

The best form of family income support comes from a job, not welfare payments. Participation in paid work provides important financial, psychological and social benefits for parents and their children. As I have said, there are almost 700,000 children in Australia growing up in jobless households. Two-thirds of these households are headed by single parents. There is ample evidence that in Australia growing up in a welfare dependent household leads to poorer outcomes for young people. Young people living with parents on income support are much more likely than average to leave school early, become unemployed or become teenage parents and end up on income support themselves. Young people whose parents work, even in low-paid jobs, fare much better. Sole parents spend an average of 12 years on income support—and a decade out of the work force can only mean a reduction in skill levels, self-confidence and self-esteem.

Senator POLLEY (Tasmania) (3.22 pm)—I would like to take note of some answers given at question time, and to put on record facts that will dispel the myth that
Senator Humphries has asserted that it is the opposition that is scaring the people who are going to be disadvantaged by this Welfare to Work package. In fact, it is the legislation and the government’s policy that is doing that. Income starving single parents and disabled Australians is not giving them an incentive to get a job. This morning the Brotherhood of St Laurence spoke of concerns about Australian children living in poverty. What will this bill do to overcome children living in poverty? In the short term, children will suffer. The Brotherhood of St Laurence said that children living in poverty suffered poorer mental and physical health. Such children are also more likely to become substance abusers. This legislation will perpetuate the problem that it is trying to resolve.

This bill will income starve the very people it should be motivating. It will make them scared. Mr Howard regularly uses fear to get what he wants. When you combine Work Choices with Welfare to Work, you have a bill that will choose its victims from the most disadvantaged in our community. The government should hear the pleas of the wise people working in welfare in Australia, have a heart and take a close look at who will suffer in the short term with this cruel legislation. Stop being so arrogant. Look and listen to the suggestions made by the good people who attended the Senate inquiry.

Is Australia so desperate for a work force that it has to use fear and income starving to motivate its most disadvantaged into jobs? For instance, what will the children of a single parent understand about eight weeks of income starving? The children will understand one thing: they are hungry. Those children will do without food, transport and electricity. Labor believe in pathways. We are inspired by individuals who have carved out careers and raised families in often dire circumstances. The difference between us and this arrogant and ugly Howard government is that Labor believe that people with disabilities and single parents need practical help, not the misery of income starving. During the Senate Community Affairs Legislation Committee inquiry into this bill, I raised the question: how does cutting the income of a single mother for eight weeks help her build a secure future? How does cutting the benefit help her children? At no time has this government been able to answer the question: why have you cut people’s income and how will this help people get work?

Labor support real reform that develops real opportunities for people to become job ready and gain work. We congratulate ACOSS and Catholic Welfare for having the guts to persist against this cruel legislation. They can smell Uncle Sam at their doorstep. They can see us becoming Prime Minister Howard’s little America. This is a hard-Right, survival-of-the-fittest government. It continues a downward slide between the haves and the have-nots. This government is so out of touch with the ugliness and unfairness of poverty in Australia that it believes this bill is a solution.

Mr Howard said that people were always financially better off in work. People should be financially better off from working but, under the Howard government’s incompetent changes to welfare, many people will end up paying to work. That is because the Howard government will take back up to 75c of every dollar that people earn when they move from welfare to work. Once they have paid for the costs of work, such as travel, clothing and child care, they may well be worse off from working. Research by the National Centre for Social and Economic Modelling shows how the government’s changes punish people who go from welfare to work. Under the government’s changes, a single parent on income support and earning $200 from part-time work will take home $92 a week less from their efforts when their youngest child
turns eight. It is not right for Minister Dutton, the Minister for Workforce Participation, to say that he wants people to move from welfare to work when he is financially punishing people who do just that.

What support will there be for people with a mental illness entering an open workplace? Some people will face many knock-backs. How will such continual rejection affect their existing mental health problems? If they are wrongly assessed as being capable of working 15 hours a week and are placed on Newstart, how will they cope with all the activities expected of them for job search? Will their payments be cut? What effect will that have on their health and wellbeing? This government has no heart.

Question agreed to.

National Security

Senator Nettle (New South Wales)

(3.27 pm)—I move:

That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Nettle today relating to anti-terrorism legislation.

My question was about the failure of the Prime Minister to respond to a letter sent to him by the Law Council of Australia on 3 November this year regarding the antiterrorism legislation that the Senate is debating today and which will, in all likelihood, be guillotined through the Senate this evening. The Law Council of Australia represents the more than 50,000 lawyers who practise in Australia. It, along with the state law societies and bar associations, placed an advertisement in today's newspapers. The advertisement reproduces that letter to the Prime Minister which expresses opposition to the terrorism legislation and, in particular, the preventative detention and control order provisions.

It is incredible that, after one month, the Prime Minister has still not responded to the concerns raised by the Law Council of Australia regarding the introduction of detention without trial or charge into Australian law. The Senate is entitled to know, and the Australian people are entitled to know, why the Prime Minister has not responded to the concerns of the legal profession. The Prime Minister's disregard for the views of the legal profession—and indeed this was re-emphasised by the minister in answering my question today—reflects on the government's whole approach to this issue. That is, introduce draconian laws, not justify why they are necessary, not point to a specific need for these laws and not listen to a Senate inquiry which called for the removal of the sedition parts of the legislation but instead push this legislation through, ram it through the parliament in just one day—in fact, in less than a day. It will be a few hours, if it is guillotined through this evening.

There has been a lot of public discussion about the sedition laws, but the Law Council's advertisement in today's newspaper should focus our attention on the core of the bill—that is, detention without charge or trial, preventative detention for two weeks and house arrest for 12 months, with the capacity for these forms of detention to be imposed over and over again. Unfortunately, the Prime Minister has been aided in the introduction of these laws by the federal Labor Party and the Labor state premiers. We have seen the mess that detention without trial has caused in immigration detention centres across this country, and now we will see the same thing occurring in our criminal law.

Both the government and the opposition should listen to the words of the Law Council, the legal profession. They should not be putting in place detention without trial or charge. It is worth the Senate hearing exactly what the Law Council said in their advertisement today. In their letter to the Prime Minister, they said:
Dear Prime Minister,

Australia’s legal profession is united behind the Law Council ... in its opposition to your Government’s proposed anti-terrorism legislation.

The Law Council particularly objects to the introduction of control orders and preventive detention orders.

The legislation offends our traditional rights and freedoms. The laws have properly been described as draconian. The justification advanced for their introduction has been meagre. It is impossible for the Australian community to know whether the laws are necessary or proportionate.

As I highlighted in my question, which Senator Hill did not answer in question time today, they quoted Winston Churchill in describing the powers reproduced in this bill as ‘the foundation of all totalitarian government’. They also quoted Robert Menzies, someone to whom the Liberal coalition these days pay lip-service but whose principles of liberalism they do not follow. The Robert Menzies quote that the Law Council reproduced in their advertisement today was:

The greatest tragedy that could overcome a country would be for it to fight a successful war in defence of liberty and to lose its own liberty in the process.

The Law Council are right to alert the public to the dangers of these laws, and they are right when they say, as they do in their advertisement today:

The Government is using the threat of terrorism to introduce laws that put our most basic civil liberties under threat. The ramifications have the potential to be as terrifying as terrorism itself.

The Prime Minister should have answered the Law Council’s letter and Senator Hill should have answered my question today in question time.

Question agreed to.

CONDOLENCES

Former Senator the Hon. Peter Francis Salmon Cook

The PRESIDENT (3.32 pm)—It is with deep regret that I inform the Senate of the death on 3 December 2005 of former senator the Hon. Peter Francis Salmon Cook, a senator for the state of Western Australia from 1983 to 2005.

Senator HILL (South Australia—Minister for Defence) (3.32 pm)—by leave—I move:

That the Senate records its deep regret at the death, on 3 December 2005, of the Honourable Peter Francis Salmon Cook, former federal minister and senator for Western Australia, and places on record its appreciation of his long and meritorious public service and tenders its profound sympathy to his family in their bereavement.

Peter Cook was born on 8 November 1943 in Melbourne. He left school at 15, working in a range of jobs, including in a supermarket and as a clerk in an abattoir. He went on to earn a degree in economics and politics from the University of Western Australia. In 1968, he married his first wife Phillipa, with whom he had four children. He later remarried to Barbara in 1985. Peter Cook had a very successful, varied and accomplished career in both the trade union movement and the Australian Labor Party. The positions he held included Industrial Officer for the South Australian branch of the Federated Clerks Union, Assistant Secretary of the Western Australian branch of the Building Workers Industrial Union, Assistant Secretary of the ACTU, Secretary of the Western Australian Trades and Labour Council and Junior Vice-President of the Australian Council of Trade Unions. He was a member of the Australian Labor Party state executive in Western Australia from 1970, going on to become its vice-president in 1982.
Peter was sworn in as a senator for Western Australia on 21 April 1983, serving 22 years until his resignation on 30 June this year. Highlights of his distinguished career were his service as a minister in different portfolios within the Labor governments of the Hawke-Keating period. Among the ministerial positions he held were Minister for Resources; Minister for Industrial Relations; Minister for Shipping and Aviation Support; Minister Assisting the Prime Minister for Public Service Matters; Minister for Trade; Minister for Industry, Technology and Regional Development; Minister for Industry, Science and Technology; and Minister Assisting the Prime Minister for Science. He held several positions in opposition, including the Deputy Leader of the Opposition in the Senate from 1997 to 2001. Peter also represented Australia on a number of official visits overseas as a minister and served on many parliamentary committees.

It follows that Peter and I shared a workplace from 1983 to 2005. I remember him as an individual clearly committed to working families, partly perhaps reflecting his own family background: his father, I understand, was a waterside worker and his grandfather a Broken Hill miner. I remember his commitment to the importance of the trade union movement and what he saw as its role of improving the living standards of working people and his commitment to the centralised wage-fixing system, for him an essential component in protecting the interests of the same people and ensuring fairness in their employment and workplace.

He was classic Labor and dedicated his working life to these causes. He also showed interest, and clearly was interested, in the economy and growing Australian industry, in science and technology, and in the development of Australia’s natural resources. From our perspective, he saw a somewhat proactive government role in each of these areas. Beyond that, he is probably best remembered in this place for his commitment to improving trade through liberalising market opportunities and through opening markets, particularly in relation to the role of the World Trade Organisation. In that advocacy perhaps his position was a little less traditional Labor.

It was with sadness that I learnt his fight against cancer had come to an end. He had fought that fight with great determination, which was typical of Peter. He was a serious contributor. His was a strong set of beliefs, and he did justice to those beliefs through a lifetime of public service. Although he did not easily warm to those on my side, he was always proper and courteous in his dealings with us. He will be missed by all of us who worked with him. On behalf of the government, I extend to his wife, Barbara, his family and friends our most sincere sympathy in their bereavement.

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (3.38 pm)—On behalf of the Labor opposition, I would like to support the motion of condolence moved by Senator Hill on the sad passing of our former colleague and former federal minister Senator Peter Cook. He was one of the finest products of the WA Labor Party elected to federal parliament. I find it very difficult to speak on this occasion, given that Peter retired from the Senate only last June and obviously did not have the opportunity to enjoy a very long retirement. As Peter is so well known to us, this is a bit different from most condolence motions, as his company, his friendship and his contact are so recent and his passing such a terrible waste.

Peter was an extremely significant and senior Labor figure for a very long time. He was involved in the labour movement for most of his adult life. He made a significant contribution to Labor in government and in
opposition, both within the party and within national politics. In the last year or so he faced a very public battle with cancer, and that was reflected in his final contribution to the Senate, through his work on the inquiry into cancer from a patient’s viewpoint. Peter was interested in politics and progress and good public policy right to the end. Peter died in Perth on Saturday, and we are deeply saddened by his loss. On behalf of the opposition, I would particularly like to extend our deepest sympathy to his wife, Barbara, and his family.

Peter was originally from Melbourne and was born in November 1943. He later moved to South Australia. The son of a waterside worker and former miner, he was educated at Nailsworth Technical High School. He left school at 15 and trained as a fitter and turner. He joined the South Australian branch of the Federated Clerks Union in 1967 as an organiser and later became an industrial officer. Subsequently, he moved to Western Australia, which was his best career decision, and he had the privilege of representing that state in this parliament for 22 years.

After working for a number of unions in Western Australia, Peter became Assistant Secretary of the old Building Workers Industrial Union. He also undertook tertiary studies during that time. He became Assistant Secretary of the Western Australian Trades and Labour Council in 1975, becoming secretary in 1976—a position he held until elected to parliament. In that role he was an enormous influence on young union officials and those active in the Labor Party. I am certainly one of those on whom his articulate, strategic and passionate style was a great influence. Peter was also vice-president of the ACTU. His experience in the union movement not only led him to a broad understanding of industrial issues but also encouraged his interest in broader economic issues. That was a significant basis for his involvement in the parliament.

Peter was elected to the Senate in 1983 in what were not uncontroversial circumstances at the time. Former Senator McKiernan missed out on that occasion but was subsequently elected to the parliament, so we got the best of both worlds. Peter came in in the early days of the Hawke government and enjoyed a long career in government. In his first speech he championed the cause of women parliamentarians. He noted the election of five new Labor women at the recent WA and federal elections and he recognised the importance and the success of female candidates.

Peter also focused very much on economic matters—the importance of growing the economy and the importance of the economy to the social problems confronting Australia. He believed that by encouraging growth and economic activity many of those issues could be addressed. Peter played a senior role in the economic policy of the Hawke and Keating governments over a number of years. He was at the heart of the Hawke and Keating governments and at the heart of a lot of the reforms that Labor took on during that period.

Peter was also very focused on industrial relations throughout that time. In his first speech, he concentrated on the importance of job security. He said that industrial harmony was more likely in an environment where ‘people have a sense of confidence and security and are not cast into the marketplace having to maximise as best they can whatever advantages they have’. He argued the need for investment in skills and training, saying:

When the world turns to countries with high levels of skill, which will survive best in a rapidly technological future, it will be those countries that have invested most in training.
He also argued for greater employee participation in the way businesses are run. I think Peter would, on the one hand, be pleased that the Labor Party that he served for so long is still taking up the fight for better living standards and a fair share of the benefits of growth for working people and for a very strong commitment to training and skills. But I suspect that, on the other hand, he would also be disappointed that it is still necessary to do so. I am sure that he would have been saddened by the passage of the WorkChoices legislation on Friday.

Peter enjoyed a very significant and successful career as a minister. He began in 1988 as Minister for Resources, during which time he contributed to the ban on mining in Antarctica. In his valedictory speech earlier this year he noted that his proudest achievement was establishing the National Landcare Program, which encourages the recultivation of our country. He became Minister for Industrial Relations and Minister assisting the Prime Minister for Public Service Matters in 1990, positions he held for three years. He also served as Minister for Shipping and Aviation Support in 1992 and early 1993.

As industrial relations minister Peter was part of the Labor government’s move to free up the industrial relations system in a way which balanced the changing needs of the economy with the need to ensure a fair deal and protection for Australian working people. Peter was responsible for producing the first new industrial relations act since 1904 and moving towards a decentralised wage fixing system. He also worked towards developing workplace cooperation, building skills and encouraging workplaces which reduced hierarchies and freed up more of the skill and initiative of the work force. He was also extremely proud of his work in Australia’s adoption of several International Labour Organisation conventions.

Peter served as Minister for Industry, Science and Technology and Minister Assisting the Prime Minister for Science, from 1994 to the end of the Keating government, during which time the government brought down its innovation statement. I note yesterday’s comments from Professor Tom Spurling, President of the Federation of Australian Scientific and Technological Societies, who said:

He is best known in this field for his efforts in stabilising the role of the CSIRO and seeking to deepen industry R&D. Under Senator Cook the position of science was consolidated in the cabinet when he was Minister for Industry, Science and Technology ...

It is interesting that Peter seems to be best known for the contribution he made in the area of trade. On his retirement he seemed a bit surprised at that because he spent so much more time in industrial relations and served as Minister for Trade for only 10 months in 1993 and early 1994. But he is widely regarded as one of the best trade ministers Australia ever had. He was consistent in his espousal of free trade over several decades. He was an internationalist who understood the importance of exports for Australia and recognised the value of lowering tariffs and trade impediments. As minister, Peter helped secure the success of the Uruguay Round of world trade talks, an opportunity that he greatly valued. In his valedictory speech he said:

To sit as the Australian negotiator for Australia on behalf of the Cairns Group, behind the Australian flag, talking to Europe, the United States and Japan on equal terms, and being able to bring home an outcome to the Uruguay Round which lifted the Australian economy was one of the proudest things that I have been associated with.

Peter believed that globalisation was a key to eliminating poverty and was not afraid to share that view with colleagues.
After Labor lost government, his work on trade continued in opposition. He served as shadow minister for trade from 1997 to 2001, so to say he had a strong influence on Labor’s trade policy would be a gigantic understatement. Peter also chaired the Senate select committee inquiry into the free trade agreement with the United States. Even very recently, Peter continued his work in the area of trade when he took up an adjunct professorship at Curtin University in Perth, where he was writing a book aimed at helping developing nations work their way through the complex system and processes of the World Trade Organisation.

Peter, to his great credit, was one of those very senior figures from the Hawke and Keating governments who stayed on in opposition, took up the hard work of rebuilding Labor’s fortunes and continued to contribute to the Labor Party. He stayed on and used his experience to assist us and continue the fight. He held a number of shadow positions and served on a range of other committees over his career in the Senate after he stepped down from the front bench. Of note was his involvement in the select committee into the A New Tax System, as well as his chairing of the Senate Select Committee on a Certain Maritime Incident. He also served as Deputy Leader of the Opposition in the Senate from 1997 to 2001.

His role in providing guidance and leadership to newer members of the Labor Party was greatly valued and appreciated. Peter was someone you could always turn to and someone who kept contributing in a very significant way throughout his career in the Senate. There was no sense of Peter having retired.

It would be wrong of me not to point out today, as I did some months ago when we farewelled departing senators, that Peter also made a very significant contribution to improving the scope of language recorded in Hansard, adding some very colourful language in his own inimitable style that will forever be recorded. I also want to make note of his very long and senior role inside the Labor Party. Peter was always a leader inside the Labor Party. He served for a long time on the national executive of the party, he was a senior figure in party circles, he had a significant influence on the development of the Labor Party and, right up until very recent times, he was very much still a leader inside the organisational wing of the Labor Party.

Peter was diagnosed with cancer in July last year. Peter’s last project as a senator was the inquiry into cancer treatments, which he was responsible for establishing. It was typical of the man that, as his experience of the cancer and the treatment options grew, he decided to take it up as a public policy issue to try and help others. He examined the journey through cancer from the patient’s perspective with a view to improving outcomes and choices for those affected. He presented that report to the Senate on his last day as a senator on 23 June this year. In speaking to the report, he described his feelings on being diagnosed and his motivation in pursuing the inquiry. He said:

When I was diagnosed I knew nothing about the disease. Initially it was a frightening and frustrating experience. With little or no knowledge I had to make life-critical decisions in an urgent time frame. Faced with that immense task it is very easy to despair and give up.

He went on to say:

... I believed that the Senate could help others navigate their way through the maze to find the treatment regime which best suited them. An inquiry could survey the field, consider the options, and point to possible solutions; importantly, it could do this by standing in the shoes of cancer patients and hopefully make sense of the system on their behalf.
I really think it is a mark of the man and his personality that, even at the end, he was looking to use any opportunity he could to find ways to help others facing the threat of cancer.

Following his diagnosis last year, Peter was keen to pursue his love of sailing and, I think, talked Barbara into letting him buy another yacht. He had a lifelong love of sailing and an ongoing connection with the sea. There are, though, many anecdotes at his expense also related to sailing. One of his great passions was the West Coast Eagles, which just shows that even the best of men have their weaknesses and can have poor judgment on occasions! Peter had a great appetite for knowledge, public policy and debate. He was an avid reader and a thinker and could always find a way of looking at things in a different way.

Personally, his colleagues found him to be good company. He had a ready laugh. He was a teller of terrible jokes and had been known to disrupt tactics committee meetings on many occasions by telling the most awful jokes. It is a tribute to him as well that he had such a wide circle of friends, from unionists to diplomats, business figures and ordinary men and women in our society. He was able to mix easily in any company, share a joke, share a zest for life and a zest for ideas.

Peter’s first marriage was to Phillipa, with whom he had four children, and we pass on our condolences to them. I want particularly to acknowledge Peter’s wife, Barbara, acknowledge our support for her and pass on our best wishes. Barbara is an intelligent, funny, vivacious woman who has always lit up a room. She provided enormous support to Peter in the last 18 months or so. Her commitment and dedication to Peter and his health over this time have been inspirational. I know all those who have dealt with her have been impressed by the energy and consistency of her support. I know she was a great comfort to Peter in the last period of his life. We pass on to Barbara our thoughts and best wishes, and we hope her future is a good one. To all of Peter’s loved ones we offer our sincere condolences and thanks for a man who made such a profound contribution to the parliament and to Australian government. Labor has lost one of its most capable and determined advocates, one of Labor’s key figures of the last two decades. Cookie, we’ll miss you.

**Senator BOSWELL** (Queensland—Leader of The Nationals in the Senate) (3.53 pm)—I would like to associate the National Party with the condolence motion for Peter Cook moved by Senator Hill, the Leader of the Government in the Senate. I had a lot in common with Peter Cook. We came in to the Senate together in 1983. He was the last person representing that era for the Labor Party. I left school at 15, as did he, and Peter Cook and I often used to talk about sailing. We both had yachts, we were both interested in sailing and we talked about the experiences he had on the Swan River.

We entered the Senate philosophically opposed and came from very different backgrounds. He came from a strong Labor background and he was always a Labor person. He was proud to be a Labor person. He was proud to be a minister in the Hawke and Keating governments. I considered people on the other side such as Peter Cook and Chris Schacht to be absolutely terrific people that you could go and talk to. I recall at one stage Peter, Barbara and I got caught waiting for a plane somewhere, and we watched a Grace Kelly and Bing Crosby movie. We sat down in the waiting room and sang all the songs in the script together. I remember one of the songs was True Love. We had a great night; we had a few drinks and sat there for a couple of hours waiting to board the plane.
Peter loved sailing. He had a boat. I understand that he bought another one that he wanted to sail when he found out that he had cancer. He made a wonderful contribution to this place. For the 22 years that he was here, he carried many portfolios, and he did a great service to the Labor Party and to Australia.

As I said the other night, Peter Cook was great for the liberalisation of trade. He reduced tariffs. I must admit that I was a bit nervous about it at the time, but he was right. He carried a lot of the deregulation of the labour market and of tariffs. He did it in his own way, and he was right. He was also Australia’s No. 1 salesman. He carried the Australian order book as the Minister for Trade, and he delivered a lot of good orders to this country. With respect to the work that Peter did on the deregulation of trade and awards, and the changes to industrial relations legislation, I stand here today and say that those on this side of the parliament are benefiting from some of those decisions that Peter Cook made, and I acknowledge that. I think he was a spectacular Labor Party person.

There was opposition from both sides—probably a lot from his party—when he talked about deregulation. There were probably a lot of people on the other side crying that the removal of tariffs would mean the end of the world. I can recall being in Cairns when my phone rang and it was Peter on the line. At the time he was chairing the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America. He said, ‘I’ve got to go into hospital. I’ve found out that I have cancer. But I will be turning up to chair the committee.’ I think Senator Brandis was in on that call with me, and we said, ‘Look, give it away; just go and get well. Take it easy.’ He said, ‘No, I’m going to finish this job.’ As you will recall, Mr President, at that stage there was a division in the Labor Party on the issue. Some were in favour of free trade with the Americans; others were against it. Peter was trying to navigate a path that would please everyone, and find a position that would be acceptable to the Left and the Right. That shows pretty strong dedication to your party, when you are dying of cancer and you are still trying to hold your party together and seek an accommodation so that the Left and Right factions could come together and agree. It was an excellent example of someone who was absolutely dedicated to the Labor cause.

He told me that he was positive, that he was going to beat it. He was not going to let it restrict his life, and he continued to try and do his best. In 2005, when he knew that he was in very serious trouble, he established the terms of reference for an inquiry by a Senate committee looking at services and treatment options for persons with cancer. Today, I read that report for the first time. Again, I thought, ‘What a courageous thing to do—to try to pull it all together and establish some means of finding a path when you have this terrible affliction.’ He tabled the report entitled The cancer journey: informing choice in the Senate on 23 June this year. He was a man of passion, decency and dignity, and I pay tribute to my classmate of 1983. On behalf of my colleagues in The Nationals, I pass on our sincere thoughts and sympathy to his wife, Barbara, and his family in their bereavement.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (4.00 pm)—On behalf of the Australian Democrats, I rise to support the condolence motion for the Hon. Peter Cook, known by many in this place as Cookie. While I did not work directly with Peter Cook on Senate committees, I admired his debating ability and his many interjections in this place. It is obvious to me that he was dedicated to the Australian people, especially to workers, through his service to the union movement and his 22-year career in
The parliament, which was indeed a distinguished one.

The son of a waterside worker before he entered politics, Peter Cook was involved in the union movement. He held positions as Secretary of the Trades and Labor Council of Western Australia and Vice-President of the Australian Council of Trade Unions. He entered politics in 1983 and was soon made a minister, in 1988. His first speech in parliament included a focus on the need for more women in parliament: a passion that I share. He remained a Labor frontbencher for 14 years and a cabinet minister for six years. His first ministerial appointment was in the resources portfolio, but this was not to be his last. He was also Minister for Industrial Relations, Minister for Shipping and Aviation Support, Minister Assisting the Prime Minister for Public Service Matters, Minister for Trade, Minister for Industry, Technology and Regional Development and Minister for Industry, Science and Technology.

His numerous ministerial appointments demonstrated his ability to cover with expertise a breadth of subject matter. I will borrow here from Senator George Campbell, who said in his valedictory speech:

Peter took to—

the trade portfolio—

... with gusto. He was extremely creative in it. He introduced a best practice demonstration program which I think contributed substantially to a lot of our smaller manufacturers being able to get their technology up to scratch and being able to introduce creative methods of production. As a consequence, we saw a real growth in the export of Australian manufactured goods in the nineties.

Peter contributed to parliamentary debate and Senate committee work with vigour. This was best captured by another of his colleagues, Senator Kerry O’Brien, when he said during his valedictory speech:

Peter is a man with great capacity. We have seen, on the many times that he has stood in this chamber or sat as the chair or as a member of a committee, the great capacity with which he has pursued his task, either in questioning witnesses or entering into the vigorous debate that sometimes ensues in this chamber. He has our great respect because he has always carried himself so well. Sometimes he did so more colourfully than some would wish; nevertheless, he always made an impact with what he said. He always impressed those who heard him as being someone who was across the subject he was speaking about or asking questions on.

We were shocked and saddened by the news that Peter was diagnosed with secondary melanomas in 2004. But, rather than withdrawing from politics, Peter used his experience of facing a disease that he knew very little about to initiate a Senate inquiry to help others. The report The cancer journey: informing choice was very well received, and I look forward to its recommendations being picked up.

The Democrats pay tribute to the Hon. Senator Peter Cook for his courage and determination and his continued commitment to his constituents and the Australian people. I will finish with some of Peter’s own words from his valedictory speech, which echoed how he felt about the place that he spent many of his years dedicated to:

... when I retire I will retire with the memory that I made great friends when I was here. In the song True Blue, John Williamson asks what it is to be an Australian. He says:

Is it standing by your mate
When he’s in a fight
Or just vegemite?

I am pretty sure all of my friends eat vegemite, but I have got a lot of mates who, when the chips were down, stood up for me and I stood up for them. I appreciate that, and that is one of my greatest memories to take from this place. It is the people, at the end of the day, that make the issue.
The thoughts of the Democrats are with Mr Cook’s wife, Barbara, his family, his colleagues in the Labor Party and his friends.

Senator GEORGE CAMPBELL (New South Wales) (4.05 pm)—It is with great sadness that I rise today to speak on this condolence motion for Senator Peter Cook, or Cookie as he was better known to most of us. It is with sadness because I feel that Peter and Barbara have been robbed of Peter’s well-earned retirement after making a very significant contribution to this place and to the Labor movement. It is with sadness also because I think the Labor movement has lost one of its finest sons in Peter Cook.

I have known and worked with Peter for over 30 years. I first met Peter in the early seventies, when he was first appointed as an official of the Building Workers Industrial Union, in the office of Pat Clancy. Pat gave both of us a lecture that day on what was expected of young union officials first starting out in the movement. I have worked with Peter in many capacities since that time onwards, in the trade union movement, in the political movement and in the parliament.

Peter was instrumental, when he was secretary of the labour council in Western Australia, in leading the fight against the pernicious police law that was known as section 54B. Three of the metalworkers union senior officials were arrested in Perth—they were arrested coming off the plane from Karratha—for holding a meeting outside the courthouse in Karratha. Whilst we led the fight against that law from the national office in Sydney, Cookie was responsible for leading the fight against it in Western Australia and, finally, rendering the law useless—like we do with all bad laws—at the end of that campaign. I got to know him very well during that period.

I recall the time when he was elected to the Senate, and I recall the animosity it created at the time. In fact, I think I was in Perth at the time the preselection was determined. It was not the best of places to be when you were friends with both of the protagonists involved in the dispute. Nevertheless, I remember meeting Cookie in King’s Hall during the introductory period of the Hawke government, when they had the summit. We had a long talk about his role in the union movement in Western Australia and what he expected to do as a politician in the federal parliament.

The other side of Cookie that should be known is that while he played a very active role in the trade union movement in Western Australia, and ran many campaigns on behalf of unionists and workers in that state, he also played a significant role in ensuring industrial peace and harmony in the north-west of Western Australia at the time. There were a lot campaigns and disputes in the late 1970s and early 1980s in the iron ore industry, and Cookie was instrumental in setting up the council—the name of it escapes me now—and he played a very active role in the running of that council. A lot of what could have been nasty disputes were avoided because he played an active role in trying to maintain a balance between the companies and the employees in that area.

I think that demonstrated one of Cookie’s very great strengths, and that was his capacity to balance off arguments and to play a mediator role within groups to try to get people into a position of resolution through talk, argument and endeavour. He demonstrated that when he became a key leader for his faction, the Centre Left, in the early 1980s when he first came into the parliament. He was elected to the national executive of the Labor Party in 1986, along with me, at the national conference that year. For most of the next 18 years we served on the national executive together. We were on the national executive committee together, so we
spent a lot of time closeted in smoke-filled rooms—as people would say—arguing and debating out specific issues and finding resolutions that were in the best interests of the party.

One thing about Cookie was that when you had a debate or argument with him, his contribution was always thoughtful, it was always considered, and it was always creative. He did become a minister, and when he was Minister for Industrial Relations I had a fair bit to do with him, as I was a senior member of the ACTU executive and spent a lot of time in discussion with Peter over a range of issues. He was also minister for industry for a period, and it was during that period that he introduced the best practice demonstration program, which was a very creative move on his part. It funded a lot of companies and, as Senator Allison said, it led to a lot of smaller Australian enterprises being able to match some of the best in the global marketplace, which led to a growth in manufacturing exports out of this country.

In the area of innovation, he was way ahead of his time with some of the ideas he had. Some of them did not work—not because the ideas were not right but because the prosecution of the ideas was less than perfect. The work that he did on innovation while he was industry minister was of great significance. It is unfortunate that a lot of it was not followed through; otherwise we would be in a much more effective position in innovation today.

He also played a very significant role as a party elder in the international social democratic movement, particularly in our own region. He helped fledgling movements to get off the ground in some of the Pacific island nations. He held the position of international secretary for the Labor Party for the last three or four years and he restored our participation within the Socialist International.

He promoted our role internationally and the party is better for it, and I think the social democratic movement in this part of the world is better for the contribution that Peter made in that particular area as a party elder.

I participated with Peter on a number of Senate committees, including the GST committee and the building industry inquiry. In that inquiry, I think he thought he was fighting for his union single-handed. He did a magnificent job through the whole of that inquiry on behalf of what he saw as being his old union.

Peter was a fighter. In all the time that I knew him, he fought avidly for the things that he believed in, and he was a fighter right to the end. I visited him on a number of occasions in hospital. He spent 16 weeks in hospital in Sydney, and I must say that his wife, Barbara, spent 16 weeks in the motel around the corner. She is a remarkable woman. I took Barbara to the airport on the morning that Peter was being shipped back to Perth, and she was as bright, cocky and cheerful at the end of that 16 weeks as she had been at the beginning when I visited Peter early on after he was admitted to the hospital.

The remarkable thing about Cookie was that, every time I went to see him, the first 10 minutes of the conversation were about what had happened politically the day before, why we had not got the lines right, why we were not doing this, why were not doing that. He was extremely critical but extremely thoughtful about what the Labor Party needed to be doing in order to win government at the next election. That was, I think, indicative of the man.

As I said, Barbara’s role should not be underestimated in all of this. Her support for Peter over that time was magnificent. I just do not know where she drew the strength from to be as courageous as she was over
that period. I wish her well into the future. I acknowledge her loss and that of the rest of Peter’s family—the loss of a very fine Labor son. Wherever Peter is now, I hope the waters are calm, Peter, and the winds are fair.

Senator SANDY MACDONALD (New South Wales—Parliamentary Secretary to the Minister for Trade) (4.15 pm)—As parliamentary secretary for trade I want to make some brief comments about Senator Peter Cook. I do so for myself and also on behalf of Mark Vaile, the Minister for Trade. Across our political divide, I liked Peter Cook. In terms of my early knowledge of trade issues, he was a mentor of mine. He was generous with his time and, as the years went by, from my side at least there was a respect for him and pleasure that I had got to know this Labor leader well. We shared a certain sense of humour and I feel fortunate to have known him. I consider that he was very much a political and social activist, not simply a political warrior, and his influence on Australia will reflect that as the years go by.

In 1993, when I was first elected—in fact, before I had made my first speech—I asked Peter Cook, the representative minister in the Senate, a question on selling off the wool stockpile, which was a very hot topic at the time. After he had answered the question, he was courteous enough to send across to me his briefing paper with a written note wishing me well for my political career and suggesting I keep the brief for my personal records. It was a generous note from someone who was then a very senior cabinet minister. I still remember that act and it was the measure of the man as I got to know him.

As we have heard, Peter Cook had an admirable ministerial career. He was only briefly Minister for Trade, from March 1993 to January 1994, but he held a whole range of economic ministries between 1988 and 1993. He was also shadow minister for trade from March 1997 to November 2001, including the time of the World Trade Organisation conference in Seattle in December 1999. He served on both the Senate Foreign Affairs, Defence and Trade Legislation Committee and the references committee, and also of course on the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America between February 2004 and August 2004.

We should especially remember Peter Cook’s contribution as Minister for Trade during the critical period of completing the Uruguay Round of GATT negotiations in 1993. Though it was then Senator McMullan who signed the agreement itself, it is widely acknowledged that Peter Cook was instrumental in bringing the negotiations to a successful conclusion. That is a great legacy.

Almost all economic commentators accept that there is no real alternative to supporting global markets, but it is not a given, not even in 2005. Peter Cook had no need to take the intellectual journey that he did throughout his long political life. Protectionist sentiments have never been far below the surface of all nations, even Clinton’s America at the time Peter Cook attended the WTO meeting in Seattle and there was that stand-off. This is so even today in Australia because there remains a strong belief within sections of the community, especially within sections of the union movement, that protectionism in itself will protect jobs. But Peter Cook always argued for trade liberalisation, knowing that the advantages flowed first to the country that liberalised first. In representing Australia, he also argued for agricultural market access, knowing that, if Australia gets access to a market, its exporters, particularly its primary producers, prosper through quality and price. I think Australian primary producers have a lot to thank Peter Cook for.
I got to know Peter well because of committee service. He was Chair of the Senate Foreign Affairs Defence and Trade References Committee, and I was his Deputy Chair. We did a number of inquiries together, but I particularly valued one inquiry, the Pacific inquiry. The inquiry report was entitled *A Pacific engaged—Australia’s relations with Papua New Guinea and the island states of the south-west Pacific* and was tabled in August 2003. The Prime Minister was and remains engaged in Australia’s role in the Pacific, and it was Peter Cook’s chairmanship of this committee that made an important contribution to the government providing the opposition-controlled committee with resources and an RAAF aircraft to complete its task. I think that all senators, including my Labor colleague Senator Hogg and my Liberal colleague Senator Johnston enjoyed the opportunity to spend that time with Senator Cook. He was entirely in his element leading this inquiry and representing Australia: he had an abiding thirst for knowledge and a commitment to the south-west Pacific region and Australia’s obligations to it. His death will be noted among his many friends, not least those in the south-west Pacific, I might say. Godspeed to Peter Cook, his wife, Barbara, and his children.

**Senator SHERRY** (Tasmania) (4.21 pm)—I first met Peter Cook in 1984. I think that, if anyone on the Labor side of politics could look back on a career that included a very active and significant contribution both as a minister as part of a Labor government and as an activist leader within the Labor Party, they would be very satisfied—that is, if they had had a career that anywhere near matched Peter’s. Few would be able to do so.

I met Peter in 1984 during what were then significant but secret discussions about the future factional arrangements of the Labor Party, namely the formation of the Centre Left. Peter had come to a conclusion that, in the long-term interests of the then Labor government, there needed to be what he called a very practical approach taken to ensuring that the stability of the Labor Party was met by a realigned factional arrangement. I am not sure some people in the Labor Party shared that view at the time, but that was Peter’s very strong view. In those negotiations, there were a number of things that immediately struck me about Peter, and indeed they were confirmed when I entered the Senate in 1990 and watched Peter perform as a minister and in this place. Firstly, he had a very strong and deep intellect and was very thorough at policy analysis—few that I can think of in politics would compare—and in his approach to picking up a brief, picking up an issue, studying it inside out and coming to, from his perspective, very reasonable and logical conclusions.

He was very hardworking and tenacious, very thorough and dedicated. Some have touched on his illness. When he found he had cancer, did he flag, did he let up, did he decide to let go of his policy drive and his practical work behind the scenes? No; he just kept on and on. There were days when I wondered whether physically he was not doing himself damage with the level of work commitment he maintained right through to leaving this place in July. Peter always stressed the practical: ‘Will it work?’ I recall having a couple of conversations with him when he was reflecting on his union days when he took a couple of trips to the then Soviet Union and China to view ‘economic progress’ that was taking place at that time. Peter very quickly had come to a conclusion that it was not working in those countries at that time. He was a strong believer in economic growth and a market economy. He believed that economic growth was paramount—not a capitalist or market economy for its own sake but with a view to redistributing that growth to those, particularly low-
and middle-income earners, who would not necessarily receive a significant slice of the pie without some form of direct government intervention. He believed in the role of government in intervening at times in the market in order to provide support and ensure the maximum competition. Those views flowed through to his attitudes to free trade. Again, it was not free trade for the sake of it; in his view it was free trade that would lead to economic growth not just for Australia but also for the poorer nations around the world. He strongly believed, passionately believed, that a free trade agenda—not an uncritical free trade agenda or free trade at any price—would assist Australia and the rest of the world.

I particularly remember, and I am sure everyone here recalls, that Peter was a very strong, clear debater. His speeches were always strongly delivered. They were delivered with very strong principle and logic and were always packed full of facts. I do not think anyone has touched on it but the legacy of the limit on time for answering questions in question time is in fact an outcome of a Peter Cook question time.

On one occasion in this place, Peter as minister received every question from his side, the then opposition’s side and the crossbenches. There were no limitations on the time for answering a question and Peter took between 12 and 15 minutes to answer every question that was put to him. He received the last question at about one minute to three. Normally, of course, when you get to 3 o’clock you do not have to keep talking and delivering power responses packed full of facts and figures. Peter kept going and going, and at 12 minutes past three the Senate was getting a little unsettled. It was the Peter Cook question time. In part as a consequence of that, we decided to limit the time on answers given in question time. But it was certainly very impressive. Peter never flagged. The answers to questions were always full of relevant fact and delivered with a punch. I have to say I did not ever see Peter Cook under any pressure whatsoever in question time. Most ministers at times feel a degree of pressure and worry about responding to questions. But I can never recall an occasion when Peter Cook looked under the slightest bit of pressure in any way, shape or form. That is because he knew his stuff. He was always well briefed, very committed and certainly never afraid of laying out his case and his view of the world, which I think was invariably a correct view.

Peter obviously played a major role as a senior minister in a Labor government, particularly in the areas of industrial relations, trade and industry. That record has been touched on. I also mentioned earlier his very strong practical view that there needed to be a factional realignment within the Labor Party. I happened to agree with him but, whether or not you did agree with his particular view, Peter was a leading activist in the Labor Party as a minister, a contributor in terms of policy and also in trying to maintain stability within the Labor Party. Trying to balance the time to handle internal issues within the Labor Party is a very difficult job to do as a senior minister. But he did that, and I think that is a mark of his very strong political commitment right to the end.

I was fortunate to enjoy a Sunday lunch with Peter and Barb earlier this year. We talked about his illness but, as Senator George Campbell said, the first 20 to 25 minutes were taken up by him wanting to find out what the latest was in terms of the internal dynamics within the Labor Party and what was happening with policy development. And, in his usual forthright way, he put forward his suggestions.

I am very saddened by Peter’s death. After such a long career in public service, he de-
served a long and happy retirement—it would have been an activist retirement—but that is not to be for Peter, sadly. My condolences go to his four children and to his wife Barb. Again, Peter and Barb were inseparable. Their political commitment and involvement was as a couple, and Barb was a very understanding spouse about the time, the effort and the commitment that Peter gave to politics. It would have been, I think, much more difficult for Peter to have made that contribution without the love and support of Barb. She was extraordinarily supportive to Peter in the last period when he had his cancer and very optimistic. As I say, I am saddened by Peter’s death. I wish he had had a long and active retirement, but that was not to be.

Senator KEMP (Victoria—Minister for the Arts and Sport) (4.30 pm)—I rise to speak to the condolence motion for Peter Cook. It is probably true to say that Peter Cook and I were not close friends, but our paths crossed constantly in this parliament and there is no doubt that he was a great warrior for the Labor movement. I note the contribution that he made as a senior member of the Hawke and Keating governments, and that record is there for all to see and has been very well expressed by other senators.

I think it is very difficult for a senior minister to move onto the opposition benches and to crank up with the same enthusiasm and energy that you might have had as a minister. There is no question that all the support that a minister receives falls away and you are left very much to your own devices. I think many people who have experienced being in the ministry and being senior ministers often fail to make the transition from government to opposition. From my point of view, I never detected from Peter Cook the slightest lack of enthusiasm for the battle. The energy which Senator Sherry and others spoke about was forever present and you, Mr President, will remember many question times when I think you had to fight to bring some order to the chamber. The vigour of Peter Cook was always noted on this side.

The historical contribution of Peter Cook is a very interesting one. The free trade debate that has been spoken about by virtually all speakers and the views that Peter Cook had on the liberalisation of trade really positioned Peter Cook in this area on the right side of history. There was a great compact between both political parties. That compact of protection lasted for the first three-quarters of a century in Federation, and both parties were very strong supporters of it. The unwinding of that protectionist sentiment took quite a long period of time and I suspect, as Sandy Macdonald said, it never really enjoyed popular support. The support for the winding back of protection was one which grew up amongst the political leaders on both sides of politics, and I freely acknowledge that the Labor Party made an important contribution to this debate. It was one which never enjoyed widespread public support and it is a debate which constantly has had to be made and still has to be made in the present period. Peter Cook was helped by coming from Western Australia, a state which pre-eminently relied on exports, and I think he was able to find some comfort for the views that he expressed from that state. It might have been far more difficult in Victoria, I suspect, to put those views at that time if you were in the Labor movement. I thought that was a very important contribution that Peter Cook made, and it is right that this chamber gives credit to that.

I asked one of my colleagues before I came down here to indicate to me how many questions I received in the parliament from Peter Cook. I thought it would have numbered in the hundreds; I was surprised to learn it was about 65, and, of course, many
of those related to the goods and services tax. Peter Cook would probably not take this as a compliment, but in opposition I studied ministers very closely to see how they responded to questions and I took note of the way he dealt with questions. I am not so sure I agree with Senator Sherry that they were replete with detail; if they were replete with detail it may not have been entirely appropriate to the question that was posed.

The truth is he was a very good parliamentary performer. He was one who, as Senator Sherry said, very much enjoyed the parliamentary scene. From our point of view as opposition, we always tried to put ministers under pressure and we found it very difficult with Peter Cook, I have to say. Although we often decided to target Peter, it is true that I do not think we made a huge impression on him or on the enjoyment which he had of the parliamentary process.

I am happy to rise and acknowledge Peter. I do not rise as a friend of Peter; I rise as someone who enjoyed the combat with Peter. He made an important contribution to the Labor movement. I thought he gave a very fine example in opposition of the need for vigour and passion, and no-one could ever suggest that Peter Cook lacked those two aspects to his character. We will miss Peter Cook. As you look across those benches, it is still so recent that Peter stood up and made that wonderful last speech in this parliament. It is hard to believe that five months down the track Peter is no longer with us. I extend to his wife and his four children my condolences, and I am sure I speak for many of my colleagues as well.

Senator FAULKNER (New South Wales) (4.36 pm)—Condolence motions are toughest when we know well the person about whom we speak, toughest when we have served with them, toughest when we have respected them and toughest when we have liked them. I can say that for me, and I am sure that this is true for many others in the Senate, it is not easy to speak about Peter Cook.

I have served in this Senate now for 16½ years—for all but the last few months with Peter. We have served together in caucus, we have served together in cabinet, we have served together in shadow cabinet and we have served together as members of Labor’s Senate leadership team. Outside the parliament, I have served with Peter as a member of Labor’s national executive. With those experiences, you get to know someone well. If I had to use one word to describe Peter Cook, that word would be ‘contributor’. He was a real contributor. As a backbencher, minister, shadow minister and backbencher again, Peter treated the parliament seriously. He argued the case for Labor with passion and courage.

He was a very good minister, and he was a minister who made a difference. I would have to say that I had a few ministerial stoushes with Peter when he was industry minister and I was environment minister, but he was always professional, albeit, I thought at the time, stubborn! The one thing I knew was that, whatever the issue, Peter had the government’s interest and Labor’s interest uppermost in his mind.

Perhaps Peter was best known for his work as trade minister. The job suited him and he suited the job. He never lost his enthusiasm for trade policy. In fact, he was talking to me about the complexities of trade issues in his hospital bed a couple of weeks ago. I must admit I found some of those complexities eye-glazing. There was no doubting his commitment to progressing the Doha Round of the World Trade Organisation negotiations and his achievements with the Uruguay Round. There is no doubt that
that commitment and those achievements will be a lasting legacy.

After our loss of government, Peter persisted during the tough times of opposition. I know how frustrating he found it. I know how desperate he was to see Labor return to government. He easily could have left the parliament and found fulfilment elsewhere. He chose to stay. I know that that was certainly the right decision for the Labor Party, and I hope that it was the right decision for him.

I want to particularly acknowledge Peter’s personal support during those four years he served as deputy opposition leader. I suppose from time to time my heart was in my mouth when Peter’s inevitable daily point of order was taken. It was a red-letter day when the President actually ruled in his favour! But Peter was a very good parliamentarian, and he also used the Senate committee system effectively. Peter was the logical choice to chair the very wide ranging Senate inquiry into the new tax system—Senate-speak for the GST committee. He was the logical choice to chair the Senate Select Committee on a Certain Maritime Incident—Senate-speak for the kids overboard committee. And he was the very obvious choice to chair the Senate select committee into the Australia-USA Free Trade Agreement. These committee responsibilities he took very seriously, and he delivered in each and every case. How tough it must have been with the FTA committee, at a time when he was literally fighting for his life, having been diagnosed with cancer.

Peter spent the last 18 weeks of his life in hospital—16 weeks in Sydney, away from home, family and friends, and the last two weeks of his life in Perth. In hospital, all Peter wanted to talk about was politics. He would give a very brief, matter-of-fact medical bulletin about his condition, which usually made me feel very queasy, followed by a thorough and insightful analysis of federal politics. Even from his hospital bed, he just wanted his party to succeed. I simply cannot express in words my admiration for the way he dealt with his illness, nor could I ever do justice to the remarkable support he received from his wife, Barbara. Barb was simply magnificent.

I last saw Peter a couple of days before he was medivaced to Perth. Barb had rung to say that Peter was to be awarded a medallion by the city of Gdansk in appreciation of his support for Solidarity. There were a number of recipients of this commemorative medallion worldwide, including a small number of Australians. With Peter gravely ill, Barb was concerned that the award might never be made. At very short notice, the Polish Ambassador, His Excellency Mr Jerzy Wieclaw, facilitated the awarding of the medallion, which I was able to present, on the ambassador’s behalf, before Peter returned home to Perth. During this condolence debate, I want to publicly acknowledge the understanding and assistance of the ambassador and the Embassy of the Republic of Poland, which allowed this presentation to be made before Peter’s death.

Peter Cook was tenacious. He was tenacious in his support for the trade union movement. He was tenacious in his support for the Australian Labor Party. He was tenacious in pursuing the goals he believed in. He was tenacious in his fight against the cancer which finally claimed him. We will miss his fighting spirit. We will miss him.

Senator JOHNSTON (Western Australia) (4.46 pm)—I commence my contribution to Peter Cook’s memory by extending my personal sympathy and condolence to his wife, Barbara, whom I met on two occasions during our many committee travels, and to all of his family, not just on my behalf but on be-
half of all Western Australian Liberals. Peter Cook was a man who, in the short time that I worked with him in this place, commanded great respect.

He was elected in 1975 as state secretary of the Trades and Labour Council of Western Australia, until he took up his position as a senator in 1983. His contribution to labour relations in Western Australia was at a time when that state, my state, was going through a huge transformation in terms of the evolution of a viable mining industry. Peter’s contribution to labour relations at that time was as a quotient of leadership a very important contribution in terms of labour relations.

He was made a minister, as I recall, in 1988 and entered cabinet in 1990. He was a Labor frontbencher for 14 years and a cabinet minister for six years. His cancer was diagnosed soon after he lost a winnable position on the Western Australia Senate ticket for the Australian Labor Party, after 22 years of service to the Senate, to the parliament and to the people of Australia.

I was impressed to note that one of his last great contributions, of which there were many, was to drive a Senate committee inquiring into the availability of health services for sufferers of cancer. Those health services were not just the ordinary, conforming, normal medical health services but alternative services: the full gamut of what is available to people suffering the misery of this dreadful ailment.

To the end, he was a great believer in the Senate committee system. Having been on a number of committees with him, I can say that he was a dedicated advocate of free trade, which he believed was the best way to address the problem of poverty throughout the world. When I first became a senator, he was subsequently appointed chair of one of the committees on which I was involved: the Defence Materiel Organisation inquiry, which was a broad and complex inquiry. He approached this quite difficult task of reviewing the DMO with great intellect and vigour and, indeed, again commanded great respect from me as a new, very green senator. Australia’s relationship with the South Pacific was a key to this inquiry. He, I, Senator Hogg and Senator Sandy Macdonald, I think it was—and I cannot think of who else was with us at the time—took off throughout the South Pacific to Tonga, Fiji, Samoa, the Solomon Islands and Papua New Guinea. This was before the government had made up its mind to go into the Solomon Islands. Our high commissioners in all of these countries were reporting back, as I subsequently found out, to the foreign affairs department as to what we were finding out, particularly in Fiji and the Solomon Islands and to some extent in Papua New Guinea.

I really began to understand that the corporate knowledge, the experience and the intellect that Peter Cook brought to the table when we were questioning leaders of these various countries was a most useful and valuable commodity. He was in fact serving the Australian people very forthrightly in that committee inquiry. He was a very erudite and interesting person, and I think we were a great team as we travelled throughout the South Pacific looking at those islands, particularly one declining state—namely, the Solomon Islands. A very short time after we came back, the Prime Minister announced that we would, at the invitation of its Prime Minister, go to the Solomon Islands and seek to assist that country.

Subsequent to that committee inquiry, having sat with him on a pre Australia-US free trade committee inquiry, I saw him participate in the actual review of the legislation and the proposal to enter into that free trade agreement. I was very interested to see the way he secured, I think, broad bipartisan support across both parties for the Australia-
US Free Trade Agreement. He was a great believer in free trade. He was a great believer in multilateral trade and in the World Trade Organisation. I also had my run-ins with him on the workplace relations committees that Senator George Campbell mentioned that I sat on. Throughout our disputation, which would come and go as various emotive witnesses and issues confronted the committee, not once did my respect for him wane. As I said, he was a person who brought a considerable degree of wisdom and corporate knowledge to those committees.

He brought the same commodity, as I perceive it, to the Australian Labor Party, to the opposition in this place as it is today and of course to the parliament. The labour movement in WA mourns the loss of a great mind and a tireless worker. That I, as a Western Australian Liberal, know and understand this is truly part of the mark of his contribution. I will miss him on our flights back to Western Australia, and I will miss talking to him about his yacht, which he and I both shared a dream of retirement upon. I regret the fact that he will not enjoy the retirement that I believe he so richly deserved after his 22 years of service.

Senator FORSHAW (New South Wales) (4.53 pm)—The passing of Peter Cook is a sad loss. It is a loss that has occurred far too early. Peter Cook was a person who made a tremendous contribution not only to the labour movement but also to the Labor Party and the parliament. He was a person who clearly, if he had lived, would have carried on making a great contribution outside of this place.

I met Peter Cook when I was young industrial officer with the Australian Workers Union and Peter was the secretary of the West Australian Trades and Labour Council and vice-president of the ACTU. There were some big figures in the union movement and leadership of the ACTU in those days, and Peter was one of them. What struck me about Peter, particularly attending meetings in my early years as a young industrial officer, was that he was always prepared to sit and have a chat with you. He had a quiet capacity to engage you. When Peter spoke, people listened. He went on, of course, to become one of the great ministers of the Hawke and Keating governments. He was Minister for Resources, then Minister for Industrial Relations and then Minister for Trade. I knew him and had more to do with him particularly in his capacity as Minister for Resources and Minister for Industrial Relations.

I would come to Canberra for meetings of the ACTU wages committee or to some other meeting where we were trying to lobby the government. Whereas some ministers would let you know who they were and that they were around, Peter always had a quiet, thoughtful approach. I do not think I have met too many others who could better Peter in detailed analysis of an issue. As somebody remarked earlier, when he made a speech in this parliament it was full of facts and you listened because you always learned.

As a former Minister for Trade, he is synonymous with trade liberalisation in this country. If you were to ask a person about who has done the most to promote trade liberalisation and they answered, ‘It was a guy who was an ex-secretary of the BWIU and the WA Trades and Labour Council and a former ACTU vice-president,’ people would generally think you were having them on. But he did. That should demonstrate to people in this place, I might say, that trade officials do actually make a great contribution, despite what might otherwise be said at times—they are not just tied to some fixed ideology. Peter made the words ‘Cairns Group’ and ‘Uruguay Round’ part of the Australian vernacular. I do not think most people had really heard those words, let
alone understood their implications. However, by the end of the process people were out there, even at barbecues, talking about the fact that Australia was the leader of the Cairns Group and had been at the forefront of finalising the Uruguay Round. Peter Cook was most instrumental in that. As Senator Boswell and others have said, the government and the country today are reaping the benefits of his work.

Senator Evans spoke about Peter’s terrible jokes. I thought his jokes were always very good, and I shared lots of jokes with Peter—usually in the corner of this chamber or in the corridor after question time. So, if there are any terrible jokes that he told at tactics meetings, they are probably the ones I told him.

I enjoyed Peter’s company on a number of occasions, but none more so—and I think I have told this story before—than when he and I were in northern New South Wales. I will not name the town, because that might get some people into trouble. We were travelling throughout New South Wales talking to people about the impact of the GST and high petrol prices. We headed into this particular New South Wales country town and booked into a motel. We noticed that next to the motel was a restaurant which boasted that it sold the biggest steaks in New South Wales. So Peter and I decided that that was where we would have dinner. We did, and it was true: they had the biggest steaks I have ever seen. Some of you can probably guess the town I am talking about. The steaks were hanging over the sides of the plates; there was no room to put salad or anything else on them. We enjoyed it. When we finished the meal we were having a coffee and thought we would have an after-dinner drink. I probably ordered a port, as usual, and I think Peter ordered a Drambuie. The waitress brought our liqueurs out in middy glasses, and they were about half full!

We continued our conversation, and it was a terrific night. I think we discussed every factional issue and every political issue that was happening at the time, had happened before and would probably happen in the future. It went on for quite a few hours. Naturally, we ordered another round of these drinks of very generous proportions. I remember that the waitress came out and gave us our glasses of drinks, but they had a little bit less in them than the first or second ones that we had had. She apologised and said, ‘This one is on the house because we’ve run out.’ We worked out that she probably had not had much experience in serving liqueurs. It was a great night, and we left a very generous tip because we knew that it would go to the waitress. I will always remember that night because I really found Peter’s company and conversation engaging. Another point I would make is that I never knew anything about nanotechnology—and I still do not—but I will always remember Peter trying to educate us all about nanotechnology on one occasion in question time.

The labour movement has lost two of its great figures in the space of a week or two: John Ducker was buried last week and today we of course pay our condolences to Peter Cook. I know that both of those people would be urging us to carry on the fight and to carry on the representation. It is people like Peter who give us the inspiration and the strength to do that. To Barbara and Peter’s family, I offer my sincere sympathy. I am going to miss his friendship, advice and jokes terribly.

Senator SANTORO (Queensland) (5.01 pm)—I do not want to take up more than a few minutes of the Senate’s time in this condolence motion. Others who knew Peter Cook much better than I did have spoken very eloquently about him as a man and a politician of honour and integrity, and I have appreciated listening to the testimony that
many of his former colleagues have paid to him in this debate today. But I do want to say just a few words about Peter Cook as a friend of Queensland. He was a West Australian, of course—someone who in the particular demographics of our federation was more likely than many to be a friend of Queensland.

I did not know Peter Cook well, except by reputation, because I came into this place shortly before he retired from it. The Prime Minister has made some generous comments about Peter Cook with regard to his strength of commitment as a minister for industrial relations. I think those comments underline the fundamental decency of our political system. Those of opposing views may be feisty and sometimes bitter opponents politically but we all recognise and nurture human values.

It is with regard to Peter Cook’s work as a minister for trade and industry in the 1990s that I wish to speak today. He was a leading advocate for the Sanctuary Cove International Boat Show in Queensland when that highly successful annual event on the Gold Coast was still in its infancy and particularly when it was developing its international profile. We all know that, in this place and in any parliament, a quiet word here or there or some well-constructed public action can be the vital spark that ignites something that will ultimately not only result in private profit but also become a significant public benefit. That is certainly the case with the Sanctuary Cove International Boat Show, which Peter Cook once opened as a minister. It is held annually in May, and last year was the most successful ever. I am sure that the 2006 show will again claim that title, and it is appropriate here today just to note quietly the role that Peter Cook played in making that possible.

We are all saddened by the passing of any of our former Senate colleagues. Peter Cook was a long-serving senator and, in the collegiate environment that this chamber provides, was genuinely a colleague of everyone. I extend my sympathy and condolence to his widow Barbara and his family and applaud not only Peter Cook’s service to the people of Australia and his home state but also the courage and fortitude that he showed in facing his final challenge.

Senator NETTLE (New South Wales) (5.03 pm)—I want to say a few words about how much I enjoyed working with Senator Cook on the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America. He was the chair of that committee. We had very different views on free trade and we had very different experiences in relation to that, but in his role as the chair of that committee, Peter was very respectful of all the witnesses, some of whom had different views from his, on all of the issues and he was very respectful of all the other senators who were involved in that committee and tried to make sure that everyone had the opportunity to ask the questions they wanted to ask and raise the issues that they wanted to raise.

I really enjoyed travelling around the country with Peter on that inquiry and learning from what he had to say. Whilst he had differing views to my own, I really enjoyed working with him on that committee. I also really enjoyed the way in which he put together the majority report of that committee. Again, he was really respectful of the views that other people wanted to express and worked to try to find some agreement amongst the senators on the committee and to make sure that all of their points of view were represented in that report. I am sure that those people who had the opportunity to work with Peter a lot more than I did got to experience more of the enjoyment of work-
ing with Senator Cook. I just wanted to put that on the record and to pass on from the Australian Greens our condolences to his family and friends.

Senator MURRAY (Western Australia) (5.05 pm)—I stand to honour former Senator Peter Cook and his service to the Australian people and, of course, his service to his political party. I also stand to offer my condolences to his family, his children, his wife and his former wife. As a policy person with a number of portfolios, I had a very intensive interaction with Senator Cook for many years—and across the chamber I see Senator Ferguson nodding his head. I would suggest that he and I are probably alike in the sense that we constantly experienced the intellect, passion and sheer determination of Senator Cook to pursue his argument and his party’s interests.

But Peter Cook was no foot soldier. He was a person who fought his corner. He had a very strong policy bent. His interest in trade and economics was not by rote; it was not as a consequence of being given a job to do; it was a genuine commitment and interest. In my view, as far as I understand the Labor Party culture, he did exhibit a genuine attention to and attachment to philosophies which you would describe as centre-left. He was a person of strong views about what values should guide public policy. But he was certainly, as has been outlined, a person who believed that Australia’s place rested on an international foundation—that Australia had to be, in all the senses of the word, an internationalist, and that it had to be engaged with the world to ensure that its people prospered, that its companies prospered, and that its future was assured in terms of the growth in its wealth and its ability to compete.

I always found him not just a fierce competitor, but also a man of humour and of substance. As is the way in this place, especially when you are on the crossbenches, sometimes you find yourself in alliance with someone; sometimes you find yourself opposed to them. Sometimes that can happen in the space of the same bill and the same issue. I would suggest that, if you look back over Hansard, you would find that he and I jostled not just occasionally but for hours on end on many issues, on many committees and with respect to many ideas.

But I found him always—and it is what I value, I think, more than anything in politicians—consistent. He was not a person who was vague, inconsistent, superficial or of the moment. I did find Peter Cook a consistent person. I guess I would give him the term that I think is the greatest credit that you can give a person in this place, and that is I respected him. I respected his contribution.

I am sad for him and his family. As others have said, to die at what is now the very young age of 62, and be denied the joys of gentler work into your 70s, and then of your grandchildren and your advancing years, and of experiencing the great benefits offered by Australia to older people—the way of life we have and the sorts of prospects which are open to people—is, I think, a great shame and a great sadness. But what we should value, of course, is that he is amongst those who can be ranked, in the long and honourable history of this country, as having provided sterling public service, and he should be so honoured.

Senator MARK BISHOP (Western Australia) (5.10 pm)—I rise to make a contribution to this condolence motion for former Senator Peter Cook. I want to commence by extending my sympathy and condolences to his wife Barbara and to his family, his friends in the labour movement and his many friends across Australia. I first came to know Peter Cook in the very early eighties, when I shifted to Western Australia seeking em-
ployment. I came to know Peter Cook in his last year or two as Secretary of the Trades and Labor Council of Western Australia when I was the secretary of an affiliated union in those days.

I have two particular memories of Peter Cook’s role in the labour council in those days, which really are a testament to the nature of the man and to the character of his work. My first memory—a very clear memory—comes from the valedictory speech that he gave upon his retirement from the labor council in 1983 or 1984, when he was about to leave the industrial wing of the movement and pursue a career in this place. The labor council in those days used to meet every Tuesday night for some two or three hours in a building that it owned in Northbridge which is now an art gallery. Peter was retiring and that evening there were many hundreds of delegates in attendance, because in those days it was a very large forum.

He gave his valedictory speech and, as then a relatively young man in his late 30s or early 40s, he made comment on some of the formative influences in his time in the industrial side of the movement and those influences which were going to guide him as he pursued a career within the Australian Labor Party. He said, in that valedictory speech, that he did not wish to single out a whole range of individuals who had been of assistance in his career to date or who had made a contribution to the development of his thinking, as is customary in valedictory speeches.

Having made that general rule, he also made the exception—he wanted to make comment on two men in particular. Those men were Harold Peden, who was then an organiser with the metalworkers and, at various stages of his career, president of the metalworkers union in Western Australia. The other person was one JD—Neil—Smith—who had been for many years at that time Secretary of the Federated Clerks Union. Those men, for various reasons, never chose to join the Australian Labor Party but worked all of their lives within the labour movement. Peter made reference to their contribution and their assistance in his role as secretary of the labor council. He told how they had been of great assistance to him, and how they had been a unifying influence in some fairly desperate and difficult times and disputes in the late seventies and early eighties.

The second memory I have of Peter Cook is from the two years I worked with him at the trades and labor council. In those days he often, if not exclusively, chaired a whole range of meetings on a daily or weekly basis of the affiliates, having to deal with a range of issues that needed a unified or coherent approach to negotiations with industry or lobbying of government. Those meetings would often go for from 15 minutes to an hour or two. My strong memory from a whole range of those meetings is that, about 10 minutes into each meeting, Peter Cook, who was chairing the meeting at the head of the table, would simply draft a resolution of somewhere between two lines and eight or 10 paragraphs. The meeting would amble on and come to a conclusion, and the resolution that he had drafted at the beginning of the meeting and then circulated was nearly always adopted unanimously by the meeting. That shows his intellectual appreciation of the issues and his ability to understand where a meeting wanted to go. Both the inclusive nature of his approach to work and the deep understanding of issues he brought to his work as a minister in various governments in the late eighties and early nineties are admirable. Many of his colleagues here today have made reference to those attributes and skills he brought to those tasks.

Finally, I make note of a very positive aspect of his character when he was a senior minister, particularly in the period 1988
through to about 1992 when there was a great deal of workplace reform and industrial restructuring occurring across Australia. From time to time, I had to conduct or convene meetings at which it was difficult to sell a message, theme or outcome that was not desired by the meeting and not appreciated by those who attended but was necessary in the longer term for the betterment of industry in that state and in our country. As a senior minister, Peter always made himself or his office available to either provide notes or, if he was in the state, to come down and participate in the meeting and actively sell the message that either the Hawke or the Keating government needed to sell to progress industrial reform in those days in Western Australia. With those few comments, I simply conclude where I began by expressing sympathy to Peter’s wife, Barbara, and to his family and many friends across Australia.

Senator STOTT DESPOJA (South Australia) (5.17 pm)—I also wish to associate myself and the members of the Australian Democrats with the condolence motion today. As you have heard from our leader and from current Australian Democrats senators in this place, Peter Cook was held in high regard. I also want to make clear, as you would know, Mr President, that former Democrats senators also held Peter Cook in very high regard. In fact, that is how I first met Peter Cook: I met Peter through two senators to whom I was seconded. Firstly, the late former senator Robert Bell, who had a very positive, happy and fun working relationship with Peter Cook when Robert was representing our party on industrial relations, as did Karin Sowada, who I also worked for. She speaks highly of her dealings with then Senator Cook as well. As a staff member and then as a senator, I was able to meet him and watch him as an impressive minister, as a fine man and as a true parliamentarian—not a tag that we attribute lightly in this place.

I cannot do justice to Peter Cook’s work in this place. Having heard many of the contributions by honourable senators, it is clear that his legacy to Australian politics, to the Senate and to the Australian Labor Party is quite evident and impressive. He made significant contributions to policy and political debates, including on trade, economics, industrial relations and, most recently, health, with regard to the parliamentary committee inquiring into and reporting on cancer. I merely want to place on record the fact that he was held in high regard by me and my colleagues. I particularly remember his kindness to me during the GST debate and afterwards and his friendship and kindness during my period as Leader of the Australian Democrats, including the opportunity to meet on a number of occasions. I see Senator Crossin and am thinking of one fun dinner meeting in Darwin of all places where we discussed various issues.

I do not know if this is a little cheeky, but I want to add a light-hearted contribution to this debate before I finish. Before I do that, I, like others in this place, wish to send my condolences to his wife, Barbara, and his family. He was a dedicated, dignified, committed and fine man in this place and beyond. I only cheekily dare add the excerpt from the Men of the Senate calendar from many years ago. I am not sure if many people in this place remember that calendar, thank goodness. What was I thinking? I did find an entry for former Senator Peter Cook for the month of November. It said:

This right hand Labor Man can’t possibly be dismissed in this November month. Peter, a typical Scorpio, is guaranteed to put a sting in your tail. The great GATTSby of the Senate likes overseas travel and entertaining. This high flying hunk is known for a bit of TLC (not just the Trades and Labor Council) and is ready to offer the highest form of protection to the girl of his dreams. No trading on these affections.
I honour the Hon. Peter Cook and wish all the best to his family.

Senator CARR (Victoria) (5.22 pm)— Senator Faulkner said earlier this afternoon how tough these motions are when you knew someone so well. I certainly would agree with that sentiment, particularly when it comes to Peter Cook, who was so recently one of us. One could not help but be shocked by the deterioration in his condition. I had a flu for a while earlier this year and, as a result of that illness, was not able to see him for six weeks or so, and I was frankly shocked to see him in hospital in Sydney. It is with great sadness that I note his passing. I was shocked to hear of it on Saturday.

Peter was a great colleague, friend and comrade. I use that term in its proper sense. I know it still raises some eyebrows in this chamber—that is certainly the case on the other side of the chamber, and I get the feeling from time to time that it is on my side of the chamber. Peter himself would have embraced that term with pride and understanding, for he had a great appreciation of history and the aspirations of our movement, the Australian labour movement.

Throughout his life Peter maintained a commitment to and a passion for the improvement of ordinary people’s lives through the labour movement. He himself came from a working-class background. His father was a wharfie and a former miner. Peter left school at 15 and worked in a variety of occupations, including as a clerk in a supermarket and an abattoir. It was not, I think, until he found the trade union movement that he found the best outlet for his talents. He served with distinction in a number of unions, including the Federated Miscellaneous Workers Union, the Federated Clerks Union in South Australia and the BWIU. He was Secretary of the Trades and Labor Council of Western Australia. He was also a vice president of the Australian Council of Trade Unions, and he saw that job as a great honour. He studied politics and economics part-time as a mature age student at university, and that was obviously a matter of some particular pride to him.

He was approached by Bob Hogg to stand for the Senate in 1983. He had an illustrious career as a senator, a minister and a cabinet minister. He travelled in various roles and developed an impressive range of contacts both in this country and internationally. He proved himself as a sophisticated and highly respected representative of the nation and of the Labor Party and the Labor government, of which he was a senior member.

In some ways Peter’s time in the ministry coincided with the best of times for Labor. After the atrocities of 1975, he undertook various positions in the West Australian branch. He served as Secretary of the Trades and Labor Council of Western Australia from 1975 to 1983 and he served in this parliament from 1983. From 1984 his position on the Labor ticket became secure following the double dissolution.

Many have noted here today, and it has been noted in the press, that he served 14 years on Labor’s front bench, including six years as a cabinet minister. He was the convener and a founding member of the Centre Left and later the independents. He served in that capacity right through until the time of his departure. This was a highly successful faction and of course it was closely associated with the Labor Party in the 1980s and the 1990s. He was a very strong performer at the Labor Party’s national conference and the national executive for the better part of 20 years. I particularly want to say that it should be noted that he chose to maintain his active service with the labour movement when we moved into opposition. He of course was a very strong supporter of Labor leaders, as
befitting the group that he led so well, but he was a particularly strong supporter of Simon Crean. He enjoyed parliamentary life and he enjoyed the role of parliamentarian and being an advocate for Labor.

He did not leave this place willingly. He approached me about seeking to approach the national executive about his disendorsement, and I urged him to seek others’ opinions on that. Assurances were given, which, sadly, were not honoured. It is ironic that Peter was granted life membership of the ALP by the Western Australian branch just two weeks ago. This underlines the tragedy that his retirement has been so prematurely cut short.

Despite the extraordinary range of ministerial responsibilities he undertook throughout his time here, his commitment to the trade union movement and to the working people never, even wavered. In the policy arena Peter’s great passions were industrial relations and trade and industry, as many have noted. He also maintained a strong and keen interest in science and resources. While he was self educated—he undertook, as I said, undergraduate studies late in life—Peter was extraordinarily knowledgeable in his chosen fields and was particularly and justifiably proud of his appointment as associate professor at Curtin University. In his commitment to this range of interests he acted not just as an advocate for those policy areas but also as a mentor. He was a person that was able to offer very strong and very welcome advice in the areas in which I had responsibilities, particularly the industry, science and research areas.

In this place, Peter was known as a man who was warm and generous as a colleague, and, I might say, even as a combatant. That was certainly my experience of him. He gave freely of his time and his experience by acting as a mentor to those around him. While we did not always agree with him, and I certainly did not always agree with him, I found him to be a person who was very easy to like. Peter sat in this chamber on the bench beside me for many years while he was deputy leader of the party in the Senate. During that time I learnt of the range of his wit and of his command of the English language. His astute observations of people and issues around him, together with his very fine humour, made him great company and someone whose opinion I would readily seek. He was widely read, intellectually astute and, while he could talk under wet cement—which, I note, is a quality that we all on both sides of the chamber enjoyed and appreciated only too well—I found his arguments always penetrating and tenacious.

After 12 years as his colleague, I certainly realise what a terrible loss to the Labor movement his death represents. We have lost a fine and talented advocate and a good friend. I extend my sincere condolences to Barbara, Peter’s wife, who has been a tower of strength and support to him throughout their time together and particularly in recent months of his illness. She was not just a close personal confidante but a political partner. Peter will also be sorely missed by his four children, of whom he always spoke with deep love and attachment.

Senator BARTLETT (Queensland) (5.30 pm)—I wish to associate myself with this condolence motion and to express my personal condolences to Peter Cook’s widow, family and wider friends, of whom, clearly, he had many. We can all think of many different phrases and words to describe our impressions of Peter Cook, but the overriding impression I had of him was that this was a guy who knew his stuff. He knew what he was talking about, he knew the details of issues across a wide range of portfolios and he was able to express his knowledge—
often, as Senator Carr suggested, at great length.

I will touch on a couple of recollections I have that I think represent some of his many abilities. It is hard to do that when you are just talking of somebody’s 22-year-long career in the Senate, let alone some of the other things he achieved outside of the Senate and in the labour movement. I thought of Peter Cook quite a few times last week. I knew he was not travelling well with his illness, but I did not realise quite how severe it was. But I thought a lot of him last week during the workplace relations debate. It was a particular passion and interest of his, and I often wondered what he might have said amongst some of the passionate and very strong contributions that people made.

He was somebody who was very passionate. He was somebody who had a fairly strong temper at times, from my recollection of him. But it was a temper that did not come—as it does with some people when they get angry—from bitterness, hatred or frustration. If it is possible to be angry in a positive way, he was. I think his temper, when he did get fired up, was because of his passion and his strong belief in issues and principles. As others have mentioned in this debate, he was also somebody who had a sense of humour. It was one that I appreciated, which may not mean it was a good sense of humour, because people do not always appreciate mine. But I certainly found his humour one that I had a lot of affinity for.

The reason I thought of him during the workplace relations debate was because of a particular experience I had with him in the middle of 2004. It was in relation to a workplace relations issue in the building industry and some amendments that the Democrats were considering supporting. It was at the end of a very long session. There was the potential at that time—nobody was sure—that it might be the final sitting day before the election was called. The debate dealt with some issues surrounding the building industry and the royal commission of a year or two before, which we had debates about again just in the last week in this chamber. I will not go into the details of the issue. It was at the end of a long session and quite late at night. As I was Leader of the Democrats at the time, I was negotiating with the government minister and the then shadow minister, Mr Emerson.

There was a bit of shuttle diplomacy being done between the Leader of the Opposition in the Senate’s office and another part of the Senate to see what might be able to be agreed to that would get the best possible result. It was an issue on which neither side was particularly happy with the position the Democrats were taking. As people would know, when you negotiate backwards and forwards and try to sensitively explore the different concerns people have, it can go over many hours. It was quite late into the night and there was the potential to sit late into the night and early morning. When negotiating, you try to sensitively and delicately touch on the different issues and concerns people have. After a few hours of delicately balancing backwards and forwards, it went back to the Labor Party. Amongst the various Labor people there—although he had not been at other times—was Peter Cook.

As I had just started to delicately explore the latest subtle nuance of the issue we were trying to nail down, he walked up to me and said, ‘This proposal you are considering supporting is absolutely evil and fascist, and anybody that supports it is an utter fascist.’ That was a little bit out of tone with the subtlety of the discussions up until that time. If you look at the third reading debate speech he gave at that time—at 1.02 am on that Friday morning—you will see he went on to talk about the evil legislation, about it being
a dictionary definition of what fascism consists of and the true meaning of that evil. It gave a sense of passion he felt about that, but it also made me think about him and wonder what he would have said last week, given that that issue had about 0.05 per cent of the enormity of what we dealt with in the workplace arena last week. I would have quite enjoyed hearing what he might have thought about what was put forward and, sadly, passed in this chamber last week. Despite his passion at that time, I knew he expressed it from an honest belief and, I might say, with some validity.

I have noted the comments he made just 12 months later and, amazingly, just less than six months ago in his valedictory speech, when he spoke of looking forward to departing from here with a mixture of eagerness for what awaited him in the future and some trepidation about what the future might hold. As Senator Faulkner outlined, the vast majority of that all too short future was spent in hospital trying to beat the illness that ended up beating him. Frankly, that is just unfair. It is one of those things that demonstrate that sometimes life is just clearly unfair.

If you look at the final speech he made, not very long ago, another thing that clearly comes through is the recognition he had of the work and the importance of the role of every individual in this place. When I say ‘every individual in this place’ I mean, as he made clear, not just the senators but the many people who support the work that we all do. He mentioned the staff, the clerks, the drivers, the hairdresser and, of course, party members. I noted his comment that he sometimes felt he had led his career back to front, coming into this chamber in 1983, just when Labor came back into office for what turned out to be 13 years, and then ending it with the fag end, if you like, of 10 years in the purgatory of opposition. That comment in itself says something positive about him, as others have said. He stuck out the hard years and, as has also been said, he was somewhat reluctant to leave when he did. He still felt that he wanted to help fight to turn things around for his party.

People have talked about Senator Cook’s role as Minister for Trade. Clearly, his involvement in the end stages of the Uruguay Round, in particular, will have long-lasting and major consequences for some time to come. I would also mention his role, as Minister for Industrial Relations, in implementing a new industrial relations act and the first steps towards a decentralised wage-fixing system, and his achievement in establishing a national landcare program as Minister for Resources. I think that most of us would be pleased to have generated even one of the things that he achieved in his time as minister.

I would also like to emphasise the effectiveness, significance and contribution of his role in the committee system. When he was in opposition he was a member of the committee that oversaw the very complex and detailed issues surrounding the new tax system; he played a role in the US-Australia free trade agreement inquiry; and he was a member of the select committee for an inquiry into a certain maritime incident, which I was also a member of. That committee was clearly dealing with some partisan political issues, and people quite rightly got very angry about the evidence they were dealing with and the injustices that we were seeing. But the way he, in particular, played his role on that committee was pivotal in ensuring that, despite all of those quite strong and divisive issues, we were able to perform in a constructive atmosphere.

I note what I thought was quite a poignant observation by Senator Nettle. She talked about Peter Cook’s preparedness to treat with respect the views of all other people and all
of the witnesses to Senate committees—even those with whom he strongly disagreed. I am sure that all of us could think of others in this place who do not meet that standard—particularly when you have someone who has been a minister, senior cabinet figure for many years, a frontbencher for a long period of time and knows about the issue forwards and backwards. Sometimes people do not find it easy to treat people with respect when they put forward views with which you disagree or when a new senator takes up positions that you do not agree with. Respect is not something that a lot of people show in this place, I would have to say. I thought that was a very positive, accurate reflection on the part of Senator Nettle.

Senator Cook was, as others have said, a true parliamentarian. He treated the parliamentary process seriously. That is something that I fear might be becoming less and less common, and therefore it is all the more important to note it when it is part of the way somebody has operated in this place. When we speak on condolence motions like this, it is not just to express sadness and recognition; it is also to make an assessment of the value of the contribution the person made and to look at what things we can learn for ourselves in the way we go about our jobs into the future. That is part of the way that people can live on after they have left us.

The final Senate committee inquiry that Senator Cook played a role in was the Community Affairs References Committee inquiry into services and treatment options for people with cancer. He said that it might well have been the most important inquiry he ever sat on in his 22 years in this chamber. As an extra mark of respect to the person, it may be of value to many of us and to others who are listening to go back and read the report and his tabling speech to make sure that we do not forget some of the lessons within it, including one of the key findings about the importance of dramatically improving the integration between conventional and complementary therapies for dealing with cancer in Australia.

As others have said, if any of us, when we leave this place, can look back on a career that has achieved so much for the good of the country and for fellow Australians, we would feel justly proud. I am sure Peter Cook’s wife and family do, and they deserve to feel proud of the contribution they made in helping him in those achievements.

I also note what is quite clear in the contributions that have been made today and in those that were made in this chamber during the valedictories when Peter Cook was departing this place five or six months ago. He quoted Paul Keating’s phrase, ‘If you want a friend in politics, get a dog.’ I do not know if Peter Cook had a dog or not, but he clearly did not need one, because he had many friends and many mates. If you can achieve that at the end of 22 years in this place, you have done something else to be justly proud of. It is a reflection of the respect that many people quite rightly had for him.

Senator EGGLESTON (Western Australia) (5.44 pm)—As a Western Australia senator I rise to say a few words about Peter Cook, who of course was also a senator representing Western Australia, serving in the Senate from 1983 to 2005. Peter Cook had a very distinguished career in the Senate, and one must honour him for that. As has been said, he was a frontbencher in his party from 1988 to 2001, and he served as a cabinet minister from 1990 to 1996 as Minister for Industrial Relations and then, for quite a short period, as Minister for Trade. But the observation has been made that he is largely remembered, at least in Western Australia, for his work as Minister for Trade, and, when one thinks of Peter Cook, one thinks of him in that context.
As a senator from the other side of the political fence I cannot claim to have had a great deal to do with Peter Cook, except to have observed him perform in this chamber, where he was a formidable presence. He was a person who exerted great influence in the time that he was here over the affairs of the Senate and the affairs of Australia. My direct experience of Peter Cook was limited to being on the Trade Subcommittee of the Joint Standing Committee on Foreign Affairs, Defence and Trade with him. From the time I first joined that committee and from the time he joined it, I was very impressed with his understanding of the factors involved in world trade and his grasp of the issues which affected Australia’s position in the world, such as our need to gain access to additional markets around the world if we were to survive as a trading nation in what has become a very competitive international trading market.

Peter Cook, as has also been said, was very committed to the concept of multilateralism and the processes of the World Trade Organisation. He persisted with his view that multilateralism was the path for Australia to follow, even after the collapse of the Cancun conference of the World Trade Organisation some two years ago—a failure that was largely attributed to the fact that the World Trade Organisation had become ‘United-Nations-ified’, as it was put by one trade official who spoke to our trade committee, meaning that there are now a lot of competing interests in the World Trade Organisation, not all of which are really committed to pursuing free trade. Even against that background, Peter Cook still saw multilateralism as preferable to the bilateral approach which many countries, such as Australia, were increasingly following. Australia of course has gone down the path of bilateral free trade agreements with countries, such as with the United States, Singapore and Thailand, in an attempt to maintain our trading position in this region and in the world at large.

Following his retirement, Peter Cook went to Curtin University, as has already also been said, as an adjunct professor. As it happens, I frequently attend meetings and lectures at Curtin University, and I heard him a couple of times sum up meetings and chair meetings. I must say that, again, his knowledge and understanding of international affairs and trade affairs in particular always came through very strongly at the meetings I attended in which he participated at Curtin University.

Most importantly, in a way, after Peter Cook retired—having been diagnosed with a melanoma—he devoted his energies to improving the lot of patients with cancer and sought to have the diagnosis and treatment of various kinds of cancers in Australia improved so that there could be better outcomes for patients. He succeeded in having a Senate inquiry established which looked into the treatment of cancer in Australia. The Hon. Hendy Cowan, former Deputy Premier of Western Australia and President of the Cancer Council Western Australia, was quoted in the West Australian newspaper today as saying, in reference to Peter Cook, ‘His experiences in the medical system made him work for better conditions for others experiencing cancer.’ I think that was a very worthy endeavour on Peter Cook’s part and one that was rather poignant considering his own condition. I think it is a wonderful tribute to the man that he sought to improve the lot of others who, like him, were suffering from the terrible disease of cancer.

In conclusion, may I say that Peter Cook was a very distinguished senator and that he represented Western Australia well. I am sure all Western Australians would join me in honouring his memory for the contribution he made to the affairs of the Senate and to
Australia as a whole. I extend my condolences to his family upon his sad death.

Senator WEBBER (Western Australia) (5.51 pm)—It has been far too short a time between when we gathered here earlier this year to listen to the late Peter Cook give his valedictory speech and today when we are gathered to speak on this condolence motion—far too short. And it has been far too short, most of all, for his family.

Unlike others in Western Australia I cannot claim to have known Peter Cook for long. I first met him in 1986, which is a relatively brief time for those of us in the west. I only truly came to appreciate the role that Cookie, as we all call him in the west, played here from March 1996, when I took on the role of working in the whip’s office with Senator Chris Evans. During that time, I came to admire and respect his enormous commitment, not only to the Labor movement but also to his adopted home state of Western Australia—and of course to the Australian Labor Party.

Most people who have contributed to this debate have mentioned, as key parts of his personality, his tenacity and his forthrightness. Indeed, if in my time in this place I can pursue the issues that I choose to pursue with half the tenacity and forthrightness of Peter Cook, I will consider myself to have done a very good job. As was just mentioned by Senator Eggleston, Peter will be remembered for his final Senate committee report, on the treatment of those with cancer. I would hope that somewhere out there he will be pleased to know that the philosophy that he brought to compiling that report and to tackling that issue has actually been adopted by those of us on the Senate Select Committee on Mental Health in terms of looking at the combined treatments for people suffering from a degenerative illness and the treatment they need as a whole person. But it is important that he should be remembered for much more than that, so it is pleasing to see the way that particularly those from this side of the chamber have outlined his distinguished career both in the labour movement and in this parliament.

Like many with his considerable intellect and working-class background, he understood, once he decided to embark on public life, the importance of the economy and of sound economic policy for the betterment of those who are not doing so well in our community. It is only by having a sound economic knowledge and adopting good economic policy that you can give the famous helping hand that we refer to in the Labor Party. Many have talked about his contribution in this place and what he should be remembered for, including his use of the English language. Mr President, you often chas-tise us at the moment for making too much noise during question time, but I am sure you would think it is a little quieter without him.

But what no-one has alluded to yet is that, when he was not being perhaps a little unruly and a little unparliamentary, he was sitting back here drawing sketches and caricatures, particularly of those opposite. I often remember how he would be sitting just near me and former Senator Kay Denman and Peter would be doing one of his usual sketches and passing it around to see if we could guess who it was. Kay could never get it right. Even when he gave away the gender of the person who had been sketched, she still could not get it right.

As I mentioned before, Peter was not originally from Western Australia. In fact, he was from the place of my birth, Melbourne. But you could never doubt his commitment to his adopted home state. In fact, unlike me, he even adopted a Western Australian football club. I have at least stayed loyal to a Victorian one. You could never doubt his sharpness of wit or mind. Through his ex-
perience with the union movement, particularly the Trades and Labor Council, he maintained an ongoing commitment to the issues of not just the people of Western Australian but specifically those in the north-west of Western Australia.

In recent times when I have been in Perth, barely a week has gone past that people have not inquired about Peter’s wellbeing, particularly during the 16 long weeks that he spent in hospital in Sydney. When I was able to tell people that he was actually returning to Western Australia, you can imagine it was viewed with very mixed feelings. It was good to have him home—where he regarded was home—but I think we all knew deep down what that return to home meant. Therefore it was pleasing that at the Western Australian Labor Party’s recent state conference, which was our first opportunity since his retirement to honour his enormous commitment to our party and our public representation, that he was granted life membership. Peter made fighting the Labor cause his own, and it is a legacy that will be there forever. So, with that, I offer Barbara and his family my sincere condolences.

Senator Patterson  (Victoria—Minister for Family and Community Services and Minister Assisting the Prime Minister for Women’s Issues) (5.56 pm)—I regret that this is not on broadcast so his family cannot hear. But I am sure they will see the Hansard of today. I cannot let almost 19 years of knowing Peter Cook go past without adding to what my colleagues have said with regard to Peter and his service to this place and to the areas in which he had great passion. Despite the fact that we often argue across this chamber in a way that might make people think they would need to send us to have some sort of psychiatric assessment, what goes on outside the chamber is often quite different. That was the case with Peter Cook. You could have a stoush here in the chamber and walk out and Peter would treat you exactly the same as if it had not gone on, and I think that is how it should be, that we can have our intellectual arguments here—sometimes very heated—yet treat each other in a civil and courteous manner outside. I always found Peter was able to do that.

Unfortunately I did not serve with Peter on any committees because our interests did not overlap much. But I respected Peter’s commitment, his ability to argue the point and his ability to work hard and to put his case very strongly. That is what this place is about. We all approach things in a different way, even those of us from the same side sometimes, but you respect those who are prepared to work hard, put their case, argue the toss and yet not take that personally. I think I can say that of Peter Cook. I cannot say that about everybody—I would not get up and say it; I do not always speak on condolence motions—but I want to say that about Peter.

People have gone through his record of various shadow ministries, his commitment to the labour movement and also his role as a minister in both the Hawke and Keating governments. Being a minister, I understand that it is not easy, especially if you are from Western Australia, where you have the time changes and the huge distances to travel. I guess I hold ministers from Western Australia in even higher regard because of the effort that has to go in because of the time change and the enormous travel. I do not think the public realises the strain that puts on families and individuals and their health—all the more strength to him that he did it for so long from the west.

I cannot imagine how his wife and children must be feeling. It is all too soon that Peter has been taken from us. Peter Walsh, I think, put it correctly when he said he de-
served an extended and happy retirement. Senator Webber said it is too soon since he gave his valedictory speech—too soon for us and too soon particularly for his family.

As people have said, he fought the last battle here with courage and great dignity. He used his experience to tell people about what it is like to be a cancer sufferer. I know only too well when we introduced the guidelines for the treatment of women with breast cancer how much I hoped that that would apply to all people with cancer because it is so easy to fall between the stools and become the disease rather than a whole person.

I think his message is a very strong message to those of us in policy but also to those who are involved in treatment that we need to treat the patient first and the disease second. That was the message, I think, that Peter was giving very loudly and clearly. He used his last challenge not for himself but for others, and for that he ought to be greatly admired.

I want to add to what has been said by other people, that he fought the fight well. He deserved, as Peter said, an extended and happy retirement. That was not to be, but he used his last ounce of strength to fight on an issue he believed in, and that was typical of him. To his wife and his children, I extend my deepest sympathy and condolences. Vale, Peter, and fair sailing.

Senator BRANDIS (Queensland) (6.00 pm)—This is the first occasion on which I have participated in a condolence motion concerning someone with whom I served in this place, and I cannot tell you how sad I am at the news of Peter Cook’s death. From the time that we learned that he was seriously ill, I do not think there was a person in this building who was not quietly hoping that the news would be good. We all discreetly inquired of our Labor colleagues how he was going, and, sadly, the news was not good. We mark today the passing of a very considerable political figure in this country, because Peter Cook achieved many of the most glittering prizes in politics. Others have recited his career in their condolence speeches: he was a senator for 22 years; he rose to be the deputy leader of his party; he served in cabinet in two governments, the Hawke government and the Keating government; and, among a number of portfolio responsibilities, he held at various times four very important portfolios—industry, industrial relations, resources and trade. I do not think I have got the order right, but those were the four very big jobs that he had.

At the time of his valedictory speech in June—a very moving occasion; we all remember it because he looked so well—he spoke with his usual enthusiasm, insouciance and wry humour. It was almost incomprehensible that he was gravely ill, and I do not think any of us seeing him speak on that occasion would have thought that only five months later we would be mourning his passing. On the occasion of his valedictory speech I made a tribute to him. I said then and I say again that Peter Cook’s lasting legacy to Australia, I believe, will be this: he should be remembered—he is entitled to be remembered—as the best trade minister the Australian Labor Party ever gave Australia.

Traditionally, the trade portfolio has never, I think, been one in which Labor politicians have shone—I do not say that in a spirit of partisanship. If anything it has been a National Party fiefdom, and many of the great names we associate with that portfolio have been National Party figures—most famously, I suppose, Sir John McEwen. But Peter Cook was undoubtedly the Labor Party’s greatest trade minister, and the reason is that he was a liberaliser. It was because he understood that the way of the future was greater freedom in global trade, and he had the courage of his convictions. He had the intellectual conviction born of deep study of trade policy, the
intellectual conviction of free trade, but then he had the courage to fight for that conviction inside the Australian Labor Party. I know from having yarred to him over the years some of the battles he fought, but he was on the right side of history and the right side of the argument within the Australian Labor Party in being the principal advocate and torchbearer for free trade. That will be, I think, his greatest legacy to the Australian people.

Peter Cook’s paths and mine crossed quite early in my career here when he was the chairman and I was the deputy chairman of the ‘children overboard’ inquiry. We had many memorable and quite intense skirmishes, and I do not abate a word of my very strong criticism of some of the conclusions that the majority of members of that committee arrived at with scant and meagre support from the evidence. But, nevertheless, Peter Cook chaired that inquiry with tremendous seriousness of purpose, tremendous tenacity and a very great determination to get to the bottom of the evidence. Notwithstanding the aggressive skirmishes he and I had, which became one of the features of that inquiry—I think you will remember, Senator Ferguson—there was never any ill will between us. At the end of that inquiry, I think we had become friends. I later served with him when he was at least initially the chairman of the Senate Foreign Affairs, Defence and Trade References Committee’s inquiry into the Bali bombing—another assignment he carried out with great dedication, professionalism and aplomb.

Finally, in probably his last great contribution to Australian public life, he was the chairman, as we have heard, of the select committee on the Australia-US Free Trade Agreement. Once again, I was the deputy chairman of that committee. It was fascinating for us government senators, who were almost observers to the argument that was going on within the Australian Labor Party between, as I said in a rather robust partisan spirit at the time, the primitives and the modernisers. Former Senator Cook was able to both steer that inquiry and guide the Labor Party’s position in relation to that inquiry with tremendous political skill and genuine expert knowledge. The fact that he was able to do so at a time when he had just learned that he was gravely ill was, I think, as courageous and impressive a performance as one is ever likely to see in politics.

I remember—Senator Boswell referred to it in his speech earlier in the afternoon—the occasion when he told us, during a telephone conference, of his diagnosis. A number of people pressed him, naturally, to take care of his health first, but he was determined to see it through—not just to deliver a good outcome for the country but also to make sure that his side of politics was part of that outcome in order to deliver a good outcome for the Australian Labor Party’s internal deliberations about the issue. I also remember when he announced the conclusions of the majority, because it was a Labor majority on that committee. It was 2 August last year and he was so ill that he could not come to Canberra—he was in Perth—so he announced the conclusion over a conference telephone to committee room 2S1 and argued the case and answered questions from the press at a time when his health was in terrible shape. That is something that will always stay in my mind as dedication absolutely above and beyond the call of duty—duty to the Senate, duty to the public and duty to his own side of politics.

It is my observation of this place that all the great senators are great partisans and they are great colleagues. Partisanship and collegiality held in the right balance, it seems to me, are the trick of what it takes to make an important contribution here while at the same time maintaining the professional re-
respect and goodwill which exists across party lines. There is no point being a good colleague if you are not a good partisan and there is no point in being a strong partisan unless you are also a good colleague. Former Senator Peter Cook I think had the balance just right. He was a fierce, doughty partisan for the Labor Party and he was able to argue his case with skill, learning and intellectual distinction, but he was a good colleague, a good man and a person whose loss is deeply felt on all sides of this chamber today.

Senator FERGUSON (South Australia) (6.10 pm)—I do not normally speak on valedictories or condolence motions but I felt compelled to today on hearing of Peter Cook’s death and also knowing that Peter Cook was just eight weeks younger than me. He had such a contribution that he could have continued to make to society with his vast knowledge and expertise that he developed over a lifetime, but particularly his experience, which would have been of great benefit to society in Australia and I am sure to a lot of his colleagues in the Labor Party.

When former Senator Cook retired in June, he was one of only five senators who were still here from when I first came to this parliament just 13 years ago. That gives you an indication of the turnover in this place, for a variety of reasons. Now there are only three. Senator Sherry, who is sitting here, is one of those—probably the junior of the three, I would say. I first remember former Senator Cook as a minister on this side and as a minister who was most capable. I think everyone would agree that when standing on his feet Peter Cook was as eloquent as anybody you would find on this side of the chamber answering questions and representing Australia as a minister. Particularly I remember his time as Minister for Trade.

It must be a very difficult transition to move from being a minister on this side of the chamber and then becoming the tenacious opposition member that former Senator Cook became. He was a very tenacious member of the opposition all of that time, particularly while he was deputy leader. I do not know how difficult that transition is, and I will probably never have to find out. I know that, in the case of former Senator Cook, it was a challenge that he met with some relish.

I worked with Peter probably more closely than those other five members of the Labor Party who were still here at that time from my early days. I choose my words very carefully because Peter Cook was someone you could work with. He had a very difficult job at times. I worked with him on many committees. Probably one of the two most significant was when I was deputy chair to him for the GST inquiry, which seemed to go on forever. Senator Sherry, whom I see here, was also on that committee. The role that former Senator Cook played, particularly at times in containing the over-energetic Senator Conroy, who is also here, certainly was one of the things that I admired in Senator Cook because it was a difficult committee to chair and Senator Cook did it so well. As Senator Brandis has already mentioned, we served together on the A Certain Maritime Incident inquiry. I guess we could say that neither of those inquiries was easy because they were politically charged inquiries—the second one politically motivated as well. In all of those times, Peter Cook was a good chair but he still maintained his passion for the outcome that he wanted, in any case.

The other particular area of his expertise was in trade matters. He was a very active member of the Joint Standing Committee on Foreign Affairs, Defence and Trade, which I have chaired for the past six or so years. His knowledge on the trade subcommittee was absolutely essential to some of the discussions that we had. He had a longer knowl-
edge of the subject than others on the committee. He had knowledge of the history of many of the decisions that have taken place in the past and was involved in many of those decisions, so he understood why they were made. He was an invaluable member of that committee and his work will be remembered there.

I think we also ought to remember how well respected he was internationally. That work in the international field has been recognised by members on the other side, particularly with regard to the International Labour Organisation. I know one man who will be very sad to hear of Senator Peter Cook’s death: his great friend, and also my great friend, the former Argentine Ambassador to Australia, Nestor Stancanelli. Nestor and Peter became great friends when Nestor was ambassador in Geneva, and that friendship remained. Throughout the seven years when Nestor Stancanelli was ambassador in Australia, he kept very close contact with Peter Cook. I know that he will miss him also.

I think the contribution that Peter made will be remembered for a long time in this place. I certainly offer my condolences to Barbara and the family and wish them well.

Senator STEPHENS (New South Wales) (6.15 pm)—Thank you to all those who contributed to this condolence motion. I think we have heard today just what a fine person Peter Cook was. After the valedictory speeches earlier this year, he said that he was quite chuffed about the fact that I had immortalised him in poetry, so I thought this evening I would have another go.

We pay a final tribute to our colleague Peter Cook Whose contribution to this place would fill a worthy book.

We recognise his efforts, and the time that he stood firm;
And honour his achievements and his legacy, long-term.

In June we had a chance to reflect on contributions
Of senators retiring, with no chance of retribution!
I likened each one of them to a god on that occasion
And remind my colleagues now how that was done with great persuasion.

Peter Cook was Neptune, at home in choppy seas.
As Minister for Shipping he had so much expertise!
For twenty years he kept his cool while troubled waters swirled,
And built his reputation, as he travelled round the world.
Another reason for the label of Neptune or Poseidon
Is that, just like the tides, he showed how he could be relied on
To dig up sunken treasure for the Senate to examine
And then there is his full name, which is Peter Francis Salmon!
Since his retirement, Peter faced his future with conviction
And lived his life determined that there would be no restriction
With Barbara as his comrade, he faced his final months,
With grace, determination, and good spirits on all fronts.

His legacy began with West Australian Trades and Labour
Where his diplomatic skills across the board gained favour;
He did not stand on ceremony, rejecting such regalia
To do his best for working folk in home state West Australia.

Peter spoke in his first speech about electoral gerrymander,
Economics of the day, and how we should not pander
to vested interests when deciding what’s best for the nation.
And concluded with his comments about industrial relations.
Peter brought intelligence to debating in this place.
He served here with distinction and farewelled us all with grace;
His final speech acknowledged friends and colleagues through the years:
And his gentle observations moved some of us to tears.
He said that he was leaving with a sense of trepidation.
We knew he faced the future with a strong determination.
The inquiry that he formed into treatments of cancer
Was not enough for him to win his fight with ‘Johnny Dancer’.
Peter Cook has left a legacy of passion and fine principle.
His contribution was prolific and his spirits were invincible:
He bid us all ‘a fond farewell with fair winds and a calm sea’
Rest easy, friend! Your fight is done! Your spirit now is free!

The PRESIDENT (6.19 pm)—In concluding this condolence motion, I would like to add a few words, because I did serve with Peter Cook in the old place and here. As other honourable senators have said today, Peter bore his illness with amazing courage and spirit. He was very positive and determined. After a distinguished career in the service of Australia, both in this place and before he came to this place, and as Senator George Campbell said earlier today and others have said, it was a great sadness for all of us that both he and Barbara have been robbed of a very well-earned retirement.

I was very pleased when Peter accepted to join me and others at the retiring senators’ dinner on 14 July. It was a very convivial dinner in the President’s suite. Despite the shadow that was hanging over Peter, he was marvellous company and we had a great evening. In fact, it was great to share some of the highlights that we had both experienced not only in the other place but here as well. I remember talking to him about the Sydney to Hobart yacht race and his yachting future. One thing stands out in my mind about that evening. I had asked the Prime Minister to come over that night for drinks and he did drop in for a drink or two, and I know that Peter was really chuffed at the fact that the PM not only came over to have a drink with all the retiring senators but spent quite a deal of time talking to him. You can bet what they were talking about. They were talking about when Peter was Minister for Industrial Relations and the Prime Minister was his shadow minister. I think Peter was really pleased that they had that chance to have that discussion that night.

I would also like to pay tribute to the work that Peter did in recent times with the Commonwealth Parliamentary Association seminars, particularly when he attended those seminars on trade issues, which were of great benefit to Commonwealth countries right around the world.

Another thing that Peter did in the twilight of his career was something he did not quite understand: being a temporary chair in this place. He said to me once, ‘I thought I had seen everything in parliament, but I get a different aspect on things when I am sitting in the chair as a temporary chair.’

I also would like to express my personal sympathy to Barbara and to the family. I ask honourable senators to stand in silence to signify their assent to this motion.

Question agreed to, honourable senators standing in their places.

The PRESIDENT—I thank the Senate.
NOTICES
Presentation

Senator Chapman to move on the next day of sitting:
That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 7 December 2005.

Senator Allison to move on the next day of sitting:
That the Senate—
(a) notes:
(i) the Australian National University study of 795 students over the age of 15 that found that almost 30 per cent had unwanted sex as a result of being affected by alcohol or drugs and fewer than half regularly used condoms,
(ii) 67 per cent had sexual intercourse and 12 per cent had been with three or more partners in the previous 6 months,
(iii) more than 10 per cent tested positive for the human papilloma virus, which can cause genital warts or cervical cancer,
(iv) almost 4 per cent said they had previously been diagnosed with a sexually transmitted disease, approximately 2 per cent tested positive for herpes simplex 2 which causes genital herpes and 1 per cent had chlamydia, and
(v) the remarks by Professor Frank Bowden, coordinator of the trial, that teenagers were starting to know about sexually transmitted diseases but are remarkably ignorant of contraception; and
(b) urges the Government to:
(i) work with the states to develop a national curriculum of sex and sexual health education and consider the need for better screening of sexually transmitted diseases, and
(ii) support the development of the human papilloma virus vaccine with a view to its widespread use.

Senator Murray to move on the next day of sitting:
The Senate calls on the Government, with regard to appointments by the Government to boards, authorities and agencies, to establish and publish principles and criteria governing public appointments, including that:
(a) no minister should be involved in an appointment where he or she has a financial or personal interest;
(b) all appointments should be on merit;
(c) except in limited circumstances, political affiliation should not be a criterion for appointment;
(d) the balance of skills on any board should be clearly specified; and
(e) as are relevant to the appointment, explicit declarations be made by appointees with respect to conflicts of interest, ethical matters, and personal or business affairs.

Senator Murray to move on the next day of sitting:
That the Senate—
(a) notes strong public concern that the checks on appointments to the Board of the Reserve Bank of Australia (RBA) may be inadequate; and
(b) asks the Government, unless the matters are already on the public record, to ensure that any appointee to the Board of the RBA be required to declare whether the appointee has any personal, family, professional, business or entity involvement with tax havens, or material disputes with the Australian Taxation Office that are or could be the subject of administrative or judicial penalty.

Senators Kemp and Lundy to move on the next day of sitting:
That the Senate—
(a) congratulates the Australian Hockeyroos for their outstanding performance in the
Champions Trophy held in Canberra from 26 November to 4 December 2005, demonstrating that the Hockeyroos are well on their way to once again becoming world champions in women’s hockey;

(b) commends the hosts, Hockey Australia and Hockey ACT, and their many volunteers for facilitating such a tremendous event;

(c) commends the Australian Capital Territory Government for contributing $4.5 million towards the development of hockey facilities in the Australian Capital Territory allowing Hockey ACT to bid for and stage a magnificent event;

(d) congratulates all those involved in ensuring that the profile of women’s hockey in Australia continues to grow; and

(e) acknowledges the important contribution of the Australian Sports Commission and the Australian Institute of Sport in developing the Australian Hockeyroos and in supporting Hockey Australia to implement successful hockey participation programs which provide increased opportunities for young Australians to participate in hockey.

Senator Stott Despoja to move on the next day of sitting:

That the Senate notes that:

(a) Adelaide University Union is no longer able to fund student radio services on Radio Adelaide (formerly 5UV);

(b) 5UV and Radio Adelaide played a key role in the media and cultural development of students in South Australia; and

(c) 5UV was the first community radio licence to be granted in Australia in 1972 and student radio began in 1975.

**ANTI-TERRORISM BILL (No. 2) 2005**

**EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK) BILL 2005**

**FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (WELFARE TO WORK) BILL 2005**

**Declaration of Urgency**

Senator Ellison (Western Australia)—Manager of Government Business in the Senate) (6.22 pm)—I declare that the following bills are urgent bills and I move:

That these bills be considered urgent bills:

- Anti-Terrorism Bill (No. 2) 2005
- Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005

Senator Chris Evans (Western Australia—Leader of the Opposition in the Senate) (6.22 pm)—by leave—I understand from the Manager of Opposition Business in the Senate that he has received some information that the government was going to move the guillotine on these bills. I have not been formally informed of that. It does not come as any great surprise to me, but I do think we have hit a new low in terms of process. We have not seen the resolution, but we understand that the government is going to move the guillotine on the terrorism legislation. I do not know what the resolution is and as far as I know it has not been formally informed of that. It does not come as any great surprise to me, but I do think we have hit a new low. The Senate ought to be allowed proper time to debate the terrorism legislation. I do not know what the resolution is and as far as I know it has not been circulated in the chamber.

None of the courtesies have been applied at all. The minister has moved his urgency motion; on previous occasions last week that was followed by the gag. I want to make the point that I do not want to delay the business of the Senate in debating the legislation before us by suspensions et cetera that unduly delay the Senate. But we have hit a new low. The Senate ought to be allowed proper time to debate the terrorism legislation. I understand that the urgency declaration will limit that debate quite considerably and that the debate on the welfare reform legislation will be severely limited as well. It is about time
the government took heed and tried at least
to temper some of this arrogant behaviour. We have not been given the courtesy of any information about how it intends to proceed. The rumour is that it is going to finish sec-
ond readers on both bills tonight and bring the committee stage on tomorrow, but that is not something that has been shared with the Senate. It certainly has not been shared with the Leader of the Opposition in the Senate. The lack of consultation and courtesy is be-
coming contemptible. I do not even know what the government is going to move. But one thing I know for sure is that we will get gagged if we try to debate it.

The Senate is owed better than that. I urge the government to reconsider over the dinner break, and to at least have the courtesy to advise senators of what is intended. I urge it not to guillotine these two major pieces of legislation, which would not allow the Sen-
ate even the most cursory of opportunities to debate them. I am not suggesting that we ought to debate the bills to the point of not allowing the government to have its vote, if that is what it insists on doing, before the end of the week. But to suggest, as I have heard, that we are going to be given two and a half hours of second reading debate on the terror-
ism legislation, which is considered one of the most important pieces of legislation to come before the parliament, is a complete outrage. It is treating the Senate with com-
plete contempt.

I urge the government to reconsider its po-

position. I urge it to do us the courtesy of tell-

ing us before it moves such motions and to at least try to get some cooperation from the Senate. We have had one and a half hours of debate so far—I think only three or four senators have had the chance to debate this legislation. I understand that the proposition is that we will have a further hour to debate the terrorism legislation and then the guillo-
tine will fall. That is clearly not acceptable. A lot of senators have taken a keen interest in this, and that would mean that the senators who served on the committee would not even have the chance to speak to the bills. It is a disgrace.

I urge the government to reconsider, to discuss with other senators over the dinner break what proper processes could be ap-
piled and to seek to get better cooperation, rather than just ram through, because it can, anything that it thinks appropriate at the time. We ought at least to be given the chance to plan, knowing how the govern-
ment is going to behave. At this stage, we have not been given any opportunity to do that. These are serious bills that deserve the consideration of the parliament. While we are pressed for time, given the government’s agenda, I do not think we ought to be treated in this way. I do not want to be disruptive of the Senate process, but to come in here, to move the urgency motion and to make it clear that you are going to move time limits on debate, without any advice or consulta-
tion, is not only discourteous but also an out-
rage in terms of the processes of the Senate.

I urge the government to reconsider, to consult with senators and to allow at least some time for the proper consideration of this legislation. Australians would be very concerned if they were to learn that the Sen-
ate is not going to be allowed more than 2½ hours to make contributions on the second reading of the terrorism legislation. That would be a complete travesty of democracy, and a travesty of the Senate’s role.

Senator Chris Evans—No, Senator Hill, I will not talk it out till 6.30 pm. I will give you the opportunity to speak. I am going to sit down in a second, if you stop inter-
rupting.

Senator Hill—One minute before half past.
Senator CHRIS EVANS—So you can move the gag, you hypocrite! I am speaking under leave because you moved the guillotine and now you want to move the gag, and you have not had the courtesy to ring me and tell me.

The PRESIDENT—Order! Senator Evans, withdraw that remark.

Senator CHRIS EVANS—I withdraw that remark. One phone call to the Manager of Opposition Business in the Senate is not consulting the Senate. I will sit down because I will show more courtesy than you are showing the Senate. I say to you: show some maturity, show some respect for the processes of the Senate and allow the Senate to do its job. The arrogance reeks out of you and your government. If you do not provide better opportunities for people to debate this legislation you will be condemned by the Australian people. Show some respect for democracy, show some respect for the Senate and at least give us some opportunity to consider major pieces of legislation.

Senator HILL (South Australia—Leader of the Government in the Senate) (6.29 pm)—by leave—There are very short memories on the other side. I can remember when they were in government, and when they were able to persuade the majority to support them, they had no hesitation at all at the end of a session to come in here and apply the guillotine on every bill that they believed should be carried before the Senate got up. And exactly the same situation exists at this time.

Sitting suspended from 6.30 pm to 7.30 pm

Senator BOB BROWN (Tasmania) (7.30 pm)—by leave—Here comes the guillotine on democracy and here comes the failure of this government to defend the most draconian incursions into civil and political rights, including the freedom of speech, in this country since at least the middle of the last century. But, as we look for motivation and find none, we know that what is happening here is a result of a government whose ego is out of control. I have listened to Senator Abetz and others explaining that everything that has happened here on industrial relations and now on these antiterror laws and the welfare to work draconian provisions coming up in the next 24 hours is because the people voted for it. It sounds very Kennettian to me, and there will be a reckoning on this.

All that can be said about this motion is that it takes away the rights of the opposition parties to take the government on on these measures. But the ultimate snub and the ultimate disdain this government has is for the people of Australia. Whatever the election outcome, it is expected that in the Senate—the place of discussion of great issues of the day—there will be adequate debating time. What is more, it is expected that you will have governments reaching agreements with other parties to allow that adequate time and consultation. None of those things is happening here.

I am not despairing about this. I think it shows the measure of this government. I think what is happening is that the control of
the Senate is taking layer after layer off the carefully layered presentation of the Howard government to the people of Australia, which says, ‘We’re there in your interest.’ Tonight this government is showing it is here in its own interest—and go hang the people of Australia and the right of proper debate in this place. You will reap the whirlwind.

Senator BARTLETT (Queensland) (7.33 pm)—by leave—What the government is doing with this motion, as I think Senator Evans has already said, is the height of hypocrisy—and that is saying something, I must say, given the contempt this government has operated with on a whole range of issues since it got control of this Senate by the narrowest of margins back in July. I found it particularly distasteful that, within literally seconds of debate ending on the condolence motion—with speech after speech from senators in this place talking about the contribution of former Senator Peter Cook and what a good parliamentarian he was and the valid contribution he made through the committee process and the importance of all of that process—and literally without consultation with anyone in this chamber, the government came in and moved a gag and a guillotine on debate on bills of monumental significance to democracy and to the people of Australia.

I noted the fine-sounding words earlier today of Senator Brandis, who, unlike me, had an opportunity to make a speech in the second reading debate on the Anti-Terrorism Bill (No. 2) 2005—something I will be denied by his vote. Senator Brandis was saying that, unfortunately, democracy has to fight terrorism with one hand tied behind its back. Unlike Senator Brandis, I think democracy is something that should be wielded with both hands and full freedom against terrorism. Restricting democracy is no way to battle terrorism. But, clearly, this government’s idea is to accept that you have to restrict democracy—and that includes gagging anybody who disagrees with it.

We also heard that from Senator Brandis: that people who disagreed with the government on this issue just are not serious. We are not serious players in this debate, according to the government’s own words. We disagree with the government; therefore, we cannot possibly have a serious view. That is contemptuous of democracy in the Senate but, in the context of laws which seek to criminalise political opinion, I think it is more than that—it is extremely dangerous, because it shows the mentality that is in place as part of these laws being put in place. So people who disagree with the government clearly are on a different plane and clearly do not need to be taken seriously or treated with any respect. It is that degree of contempt that infects and poisons even further the government’s approach on this legislation.

I should point out that the other aspect of this gag and the guillotine will mean that we will not even have the opportunity to circulate amendments. This is possibly something the government has forgotten about. Because the government is so filled with arrogance these days and so used to being able to just steal a lazy $50 million to promote and propagandise its own party policies it possibly does not recognise what it is like for everybody else. The resource available to non-government senators and everyone else in the country is not just a bottomless pit of taxpayers’ money. We will not even be able to have amendments finalised to be circulated in this chamber for the welfare changes—changes that will cut the income of over 100,000 Australians. We will not even have the opportunity to have that viewpoint reflected via amendments circulated in this chamber.

I know that the government does not care about this. I do not expect it to care any
more, because its contempt and arrogance are so extreme that this issue is not something it is likely to be bothered with. But I should emphasise that every single individual Liberal and National Party senator is culpable in this process, because any single individual one of them can stop this. Any single individual senator can display some respect for democracy—along the lines of all those fine words we heard in the condolence debate this afternoon, that clearly were without substance—by simply indicating their opposition to this contemptible process. Sadly, I suspect we will be disappointed in seeing that.

We have had a suggestion from government speakers that this has all happened before—that it is the same, and our memories are all too short. Well, I think it is the government senators whose memories are well and truly gone because they have been in power too long and they have been corrupted by that power, and we are seeing that evidenced in this utterly corrupt process here tonight.

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

The Senate divided. [7.42 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes…………. 33
Noes…………. 31
Majority…….. 2

AYES
Abetz, E. Adams, J.
Barnett, G. Boswell, R.L.D.
Brandis, G.H. Calvert, P.H.
Chapman, H.G.P. Colbeck, R.
Eggleston, A. Ellison, C.M.
Ferguson, A.B. Fierravanti-Wells, C.
Fifield, M.P. Heffernan, W.
Humphries, G. Joyce, B.
Kemp, C.R. Lightfoot, P.R.

Macdonald, I. Macdonald, J.A.L.
Mason, B.J. McGauran, J.J.J. *
Nash, F. Parry, S.
Patterson, K.C. Payne, M.A.
Ronaldson, M. Santoro, S.
Scullion, N.G. Treeth, J.M.
Trood, R. Watson, J.O.W.

NOES
Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G. *
Carr, K.J. Crossin, P.M.
Evans, C.V. Faulkner, J.P.
Fielding, S. Forshaw, M.G.
Hogg, J.J. Harley, A.
Kirk, L. Ludwig, J.W.
Lundy, K.A. Marshall, G.
McEwen, A. McLucas, J.E.
Moore, C. Murray, A.J.M.
Nettle, K. Polley, H.
Sherry, N.J. Siewert, R.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R.
Wortley, D.

PAIRS
Campbell, I.G. Hutchins, S.P.
Coonan, H.L. Milne, C.
Ferris, J.M. Ray, R.F.
Hill, R.M. Wong, P.
Johnston, D. O’Brien, K.W.K.
Minchin, N.H. Conroy, S.M.

* denotes teller

Question agreed to.

Allotment of Time

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (7.46 pm)—I move:

That the time allotted for consideration of the remaining stages of these bills be as follows:

<table>
<thead>
<tr>
<th>Bill</th>
<th>Time Allocated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anti-Terrorism Bill (No. 2) 2005</td>
<td>second reading debate—commencing immediately until 6.30 pm today and from 7.30 pm to 8.30 pm today</td>
</tr>
</tbody>
</table>
I also move:

That the question be now put.

Question agreed to.

The PRESIDENT—The question now is that the motion moved by Senator Ellison regarding allotment of time be agreed to.

Question agreed to.

ANTI-TERRORISM BILL (No. 2) 2005

Second Reading

Debate resumed.

Senator BOB BROWN (Tasmania) (7.47 pm)—When Hitler was asked, ‘Will you return the freedoms you are taking from the people when the communists have been dealt with?’ he said, ‘Yes, of course I will.’ It is something we should all reflect on. Before I proceed to my speech, I seek leave to have speeches by Senator Nettle and Senator Siewert incorporated.

Leave granted.

Senator NETTLE (New South Wales) (7.47 pm)—The incorporated speech read as follows—

On the 26 September 2001 Prime Minister John Howard officially opened a new public space called Magna Carta Place here in Canberra. The square commemorates this first bill of rights which came out of the struggle of the English people against the arbitrary and tyrannical power of King John in the thirteenth century.

Speaking on the importance of the Magna Carta as a foundation stone of democracy, Prime Minister Howard said:

“I can’t think of things that are more important in binding us together than those common commitments to the liberty of the subject; the importance and the primacy of private property within an orderly democratic society; the freedom from arbitrary arrest and the right of people to be judged by their peers according to the evidence made available in that process.”

Four years later, after 28 pieces of terrorism legislation have passed though this place, the government is now ripping up the freedoms of the Magna Carta.

The Greens oppose this bill.

The Anti-Terrorism Bill (No. 2) 2005 is a horrendous attack on the most fundamental rights and freedoms of Australian democracy. Freedom of expression, freedom of association and religion, the right to privacy are all attacked by this bill.

Most importantly of all, the freedom from arbitrary arrest and detention without trial, that freedom which we gained almost 800 years ago is taken away.

The gravity of this bill is reinforced by the lengths to which the government has gone, to circumvent the protections of the constitution in introducing detention without charge or trial.

By enlisting the support of State Labor governments, the Howard government is seeking to introduce two weeks of detention without charge, something the Australian constitution and the High Court would not allow.

Control orders will allow house arrest for up to 12 months and along with preventative detention will not be able to be effectively reviewed by the courts.

The bill may yet fall foul of the constitutional problems inherent in giving the executive a power that since Magna Carta has been seen as the province of the judiciary, but regardless of what the
courts decide it is clear the government is seeking to use a device to avoid the protections of the constitution.

This bill tramples on human rights recognised under international law. The Convention on the Rights of the Child and most importantly the International Covenant on Civil and Political Rights, the modern global Magna Carta, is breached by this bill.

The Greens have sent the legislation to the United Nations Human Rights Committee for assessment, but it is clear from evidence to the Senate inquiry that Australia’s obligations under international law will be in conflict with the provisions of this bill.

International law academics, senior council and the Human Rights and Equal Opportunity Commission all gave evidence about how the prohibition against arbitrary detention in particular, is violated by Schedule 4 of the bill.

The Greens will be moving an amendment to require courts interpret this legislation in line with Australia’s obligations under the international law, when the bill is in conflict the court will make a declaration of incompatibility.

But it should not be necessary for us to amend the bill, the Senate should not be passing such legislation and we should already have a bill of rights enshrined in the constitution or in legislation.

Human rights organisations such as Amnesty International, churches such as the Uniting Church and the Australian Catholic Social Justice Council, unions such as the Media and Entertainment and Arts Alliance, community groups such as the Federation of Ethnic Communities Councils of Australia and the Australian Muslim Civil Rights Network have all expressed substantial concerns with and opposition to the bill.

Over 290 organisations and individuals made submissions to the Senate inquiry into this bill almost all of them opposed to the legislation, the exceptions being ASIO, the Federal Police and the government department that wrote the law.

All of these submissions made a case for why this bill is not needed, but the government, the police and ASIO have failed to make a case for why they want these laws.

The government’s argument essentially boils down to this: “It would be easier for police if they had these laws”. Easier to lock people up, easier to obtain documents and information from journalists, lawyers and companies, easier to prosecute people for things they say.

But that is not an argument for why fundamental rights should be removed.

Arguments of efficiency have often been used to remove human rights by dictatorial governments. For example, it may well be easier to find terrorists if everyone in the country was put under curfew, or as we have seen in the United States people may argue if torture was allowed it would be easier to gain information. But are they arguments we should accept?

Evidence from the legal community, in particular the Law Council of Australia, representing all Australian lawyers and barristers and backed by their counterparts in the UK and United States strongly asserted that preventative detention and control orders should not be enacted.

The Law Council made the following important points which emphasise there is no case for the new powers of preventative detention and control orders:

- The 17 arrests made in a joint task force of federal and state police and ASIO, which have resulted in charges being laid for terrorist related offences, demonstrate the effectiveness of existing law to anticipate alleged terrorist acts;
- The current ASIO powers to detain and question suspects up to 7 days have not been used to date;
- Dennis Richardson (Former Head of ASIO) commented in May 2005 to the Parliamentary Committee reviewing ASIOs questioning and detention powers that the laws which were enacted have worked well;
- The 7 July 2005 London bombings occurred despite the existence the preventative detention orders and control orders;
- Comments by Head of Police, for example, Commissioner Moroney (NSW Police) that the lessons learned from Bali, Madrid and London are that government effort should
focus on ensuring that the law enforcement agencies and intelligence authorities are properly resourced and organised to deal with terrorist activity.

John von Doussa, President of the Human Rights and Equal Opportunity Commission has said this legislation will take us towards a “police state”.

It is disappointing that the Senate Committee despite the overwhelming evidence to contrary have chosen to back the government on preventative detention and control orders; the building blocks of a police state.

The Senate inquiry also heard extensive evidence about the threat to freedom of speech and expression posed by this bill. Artists, film makers, journalists and media proprietors are all endangered by the clauses on sedition, notices to produce information and the definitions of advocacy.

Taken together these clauses of the bill are already having the effect of chilling dissenting voices criminalising those who voice their opposition to Australia’s occupation of Iraq or oppose the occupation of Palestine or West Papua.

The provisions on sedition are so wide many ordinary expression of opposition to government could be caught.

The ACTU, for example, could be banned using the unlawful association sections, for advocating civil disobedience in protest of the Work Choices legislation.

Friends of mine who play hip hop could fall foul of the laws with albums such as the Herd’s “Burn down the Parliament” deemed to be seditious.

We welcome the inquiries call for the removal of sedition from this bill. The Greens will continue to campaign against sedition until we can remove these laws from this bill and from the existing criminal law.

In the UK police have used terrorism laws to stop and search and detain people attending peace protests in London and in the country side. In one case a whole bus loads of people were stopped on their way to a peaceful protest at Fairford Air Base where US B-52 bombers take off to bomb Iraq.

The Greens are concerned that the new police powers set out in Schedule 5 of the bill will be used in a similar manner perhaps at protests in the Northern Territory against US B-52 bombers using this country, or perhaps in the Western suburbs of Sydney and Melbourne where police will place the Muslim and Arab communities under greater pressure.

The detention and deportation of Scott Parkin and the recent bungled raids have highlighted the dangers of removing safeguards and giving too much power to ASIO and police agencies.

Schedule 6 of the bill will enable police to avoid the requirements for search warrants and force people and businesses to provide information and documents about individuals for the investigation of terrorism or in some cases in the investigation of serious (but non-terrorist) offences. This is an incredibly wide and unaccountable power for police to breach the privacy of citizens, a power exercised in secret.

In an almost unprecedented show of unanimity all the media organisations, Fairfax, News Ltd and others have opposed this schedule of the bill, as well as the secrecy provisions of preventative detention, because of the severe impact on the media’s capacity to report on not only terrorism but also ordinary criminal matters.

The new powers for ASIO contained in schedule 10 of the bill are a further removal of some of the few safeguards that regulate the secret spy agency.

The Greens recognise the danger that terrorism poses to Australian society, but this threat must be kept in proportion. We must also recognise that more powers for police could not only be unnecessary but may be counter-productive. The use of the control orders outlined in this bill could risk alienating precisely those communities which need to be engaged if we are to prevent the sort of tragedies we saw in London.

Just as importantly, we need to recognise that the conflict in the Middle East is at the heart of the problem of terrorism. We should never have illegally invaded Iraq, but we still have an opportunity to change direction and withdraw Australian troops. This could be a first step in addressing the root causes of support for terrorism.

These laws, like the government’s industrial relations laws, are a fundamental shift in the balance
of liberty in this country. We should remember the thousands, perhaps millions, who have died in the struggle for freedom and democracy since the Magna Carta almost 800 years ago.

We should not pass this law. It is not needed. It will be counterproductive and the Australian people will regret its passing in the years to come.

The Greens will not give into the fear of terrorism used by the Howard government to hide its industrial laws and to justify the removal of our rights.

The Greens will oppose this bill.

Senator SIEWERT (Western Australia) (7.47 pm)—The incorporated speech read as follows—

As advocates of free speech, participatory democracy and fundamental human rights the Greens oppose this proposed legislation.

We do this because we are proud of, and believe in our nation and believe in our duty to advocate for Australia’s best interest.

We are being told -
“...if you don’t support this you are un-Australian.”

These terrorism laws are actually un-Australian.

It is un-Australian to stifle freedom of speech, endanger human rights and put particular sections of our multicultural country at greater risk of vilification and unlawful imprisonment.

We are being told -
“... if you don’t support this you are supporting terrorism.”

These terrorism laws are actually supporting terrorism. By undermining our democratic right to speak out, by removing our civil liberties, by creating a culture of fear and uncertainty —we are giving comfort to terrorists.

If terrorists are supposedly intent on destroying our democracy —must we help them?

I am dismayed at what is being done to our democracy and our public institutions. At what is being done to our way of life.

This anti-terror legislation taken in isolation is not the kind of thing we would expect of a nation with a proud democratic history. And it is not just the Australian Greens who are saying this —these comments are coming from across the country and across the globe - They are being expressed by all aspects of the community, non government and government organisations and in the legal opinions of professors and doctors in Law at leading universities, of expert constitutional lawyers and barristers and QCs.

In October 2005 the International Commission of Jurists, Eminent Jurists Panel —announced a global enquiry into human rights and counter terrorism.

I quote from Arthur Chaskalson, ICJ President from South Africa who was involved with the Rivonia trial of Nelson Mandela and other ANC members —an organisation that was struggling against apartheid, and one. I might point out that these proposed laws could easily determine as a terrorist organisation...

“There is presently no part of the world that is immune from terrorism. The threats are real and call for a firm response from states. The response should, however, be proportional to the danger involved and carefully tailored to address it, bearing in mind that the danger includes not only the harm done by terrorism, but also the harm done to the fabric of our societies by disproportionate responses that undermine democracy itself.

This international panel of some of our most respected legal and human rights advocates has stated that “Governments are adopting ever-new counter-terrorism measures and claim that ‘the rules’ have changed. The ICJ has set up an independent Eminent Jurists Panel on Terrorism, Counter-terrorism and human rights to investigate whether these often profound changes in law can be justified.”

They have noted that the ‘human rights price of excessive counter-terrorism measures includes’:

• indefinite or secret detentions, often without charge or trial
• protective reach of the courts cut down, detainees held without habeas corpus
• fair trial guarantees ignored, rights of defence cut down and rights of appeal removed
• criminalisation of political and social dissent
• freedom of expression threatened
• erosion of democratic checks and balances
• discrimination against minority communities
• vague definitions of terrorism misused

These are all concerns that have been raised by over 280 submissions to the committee against this bill and underline the fact that this is a global problem for which we must look at global solutions, constantly bearing in mind our legal commitment to International Human Rights Covenants.

These changes violate our fundamental human rights, they violate our obligations under international law as signatories to the International Criminal Court, and they undermine our democracy.

Under international law, in accordance with the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights - Australia is only entitled to override and infringe upon what are considered as universal basic civil and political rights after it has declared a state of emergency.

There is no state of emergency and it seems the government has no intention of announcing one - our terror threat level has stayed the same since September 11.

We are, however, in a state of fear. Our government has run a vigorous campaign to foster a climate of fear - to justify laws that will undermine fundamental legal provisions that ensure freedom from arbitrary detention, that ensure freedom of association, expression and movement.

Furthermore these proposed new laws are not even necessary - Australian police and security services already have substantial powers to deal with terrorist threats, as was evidenced by recent arrests made under existing legislation in Melbourne and Sydney.

In Australia any of us can already be detained merely because the authorities believe we might know something relating to terrorism or threatening the national interest - something that we don’t even have to know that we know.

These laws are already in contravention of the International Covenant on Civil and Political Rights - Detention without charge or trial is banned by international law and the provisions for preventive detention and control orders breach many basic rights.

Control orders or house arrest are not restricted to someone proved to be a terrorist, they could be people who may have trained with an organisation in the past that the government now declares to be terrorist organisation. Or if "on the balance of probabilities" they can be shown to be a terrorist risk.

The bill also enables someone to be detained if it is necessary to preserve evidence of a terrorist act; witnesses to a terrorist act, for example could be detained for two weeks.

In understanding how this may operate in practice it is important also to remember the definition of terrorist act that this legislation relies on is so broad it could encompass many anti-colonial or national liberation movements and many political protest movements. It could also possibly apply to workers who are undertaking what was previously lawful strike action who are working in areas of key infrastructure or communications.

Control orders could last up to a year, and further to that, there seems to be inadequate safeguards to stop the police for applying for a renewal year after year in effect making the orders indefinite—which would put us in the dubious company of human rights abusing countries like Burma who have kept Aung San Suu Kyi —the democratically elected opposition leader, under house arrest for over 10 years.

Preventive detention can be used even if there is no belief that people are guilty of a crime or are planning a crime. Once detained people may only advise one family member that they are safe and that’s all, and will not necessarily have access to a lawyer.

Should someone who was detained subsequently speak to family, friends or the media about it they could go to jail for five years.

The government and Labor seem to have both assumed that we cannot fight terrorism and adhere to the basic principles of justice and democracy.

It is not enough to support justice only for those who agree with us.
As soon as we do this, as soon as we undermine fundamental human rights by dehumanising a group of people — no matter how much we may disagree with their ideas — we are putting all of the things we hold as morally and ethically important at risk.

This is the first step on a very slippery slope. We are betraying our own principles, and we are further creating and encouraging the very conditions that breed terrorism.

As Thomas Paine said “He that would make his own liberty secure must guard even his own enemy from oppression, for if he violates this duty, he establishes a precedent that will reach to himself.”

The combination of these sweeping and arbitrary powers, and the lack of checks and balances, of legal scrutiny and judicial review are ripe for abuse.

Let us reflect upon the Tampa, the Children Overboard affair, the Pacific solution, the treatment of asylum seekers, the abandonment of David Hicks, and the experiences of Vivian Solon and Cornelia Rau.

We have witnessed multiple incidences where we must question whether we can trust our government. Similarly can we trust ASIO or the Federal Police to be immune from the political interference and the culture of abuse we have witnessed in DIMIA?

Is it safe to allow them to make individual decisions to administer control orders and preventative detention which are based on vague concepts such as ‘suspicion’ without reference to a court?

How are they to use these sweeping powers to enforce the concept of ‘sedition’ — which could see people being sent to jail for up to seven years for possibly “urging disaffection against the government”?

Sedition is widely regarded as discredited and irrelevant to modern democracies where freedom of speech is encouraged as an integral part of the political process, and in fact actual is more likely seen in countries such as China and Singapore with a poor record of human rights abuses.

Last week in the Sydney Morning Herald there was a series of articles by prominent Australian artists, musicians and authors — all of whom expressed grave concerns with the potential for sedition laws being used to silence dissent and stifle the freedom of speech people have struggled so many years to achieve.

Filmmaker Robert Connolly noted in relation to the sedition provisions that an iconic Australian film such as Gallipoli could be seen to ‘urge disaffection with the sovereign and encourage the enemy’ .... ‘and the Government will dismiss any danger to a film such as Gallipoli on the basis of “trust our good intentions” whilst referring to the McCarthy era in Hollywood as having had a dramatic impact on film-makers and the danger inherent in going down this path.

He further expresses...

“It is no surprise that filmmakers and artists have rejected any comfort offered by the Attorney General that his word is guarantee that the laws will not be used.”

When referring to the Attorney General it is also interesting to note a recent incident which we must hope is not an indicator for the future.

As reported by the ABC in October a work by artist Michael Azgarian which featured the Attorney General, John Howard and Amanda Vanstone with their lips sewn up was recently accused of being treasonous.

The Prime Ministers office referred a complaint about the work to the Arts Department which then contacted the gallery to ask if the show was government funded.

Rather than leaving ourselves open to similar incidences completely stifling free speech it would be preferable if these provisions were dropped entirely from Australian criminal law (as recommended by the Commonwealth Criminal Law revision Committee in 1991).

These provisions modernise the archaic sedition laws - giving them a new legitimacy and encouraging their use.

The new offences do not require any intent to cause violence - the bill provides for a person to ‘recklessly’ encourage others to commit violence without any specific intent to do so.
It is sufficient that a person urges another to engage in conduct that is intended 'to assist, by any means whatsoever' a country at war or engaged in armed hostilities with Australia. This even applies in the situation where Australia has illegally entered into hostilities, as is the case in the ongoing occupation of Iraq.

No genuine commentator, religious or community leader wishing to participate in a legitimate debate on the topic of 'terrorism' can be certain that their activities will fall outside the ambit of the offences in this Bill.

However, having this debate is exactly what we need to be doing. We urgently need public debate about how we can address the causes of terrorism. We need informed critique of our foreign policy and our support and involvement in military intervention overseas to ensure that we are not perpetuating a cycle of violence.

The Greens are committed to positive social change that addresses the causes of disadvantage and inequality. We are committed to tackling the root causes of terrorism and we are committed to defending our democracy.

This country needs to be able to openly discuss issues to avoid and resolve conflicts. It is by exposing abhorrent and hateful views to the air of public debate that we allow misconceived extremist ideas to be engaged and corrected. By creating an offence like sedition we drive these views underground and aggravate the grievances that underlie them.

Free speech is the foundation of community and democracy — without which open political process becomes impossible.

The Greens believe that in this current climate it has become even more important that Australia should have a Bill of Rights.

In the absence of a Bill of Rights our Constitution only protects political communications — and not what most of us think of as free speech.

This means that Australian courts will find it very difficult to apply these sedition and incitement laws without infringing on our fundamental human rights.

The Greens oppose this bill as an unnecessary violation of basic human rights and believe we should seek to address the causes of terrorism within our country and across the world by promoting a just and sustainable society and treating all citizens with equality and respect.

Senator GEORGE CAMPBELL (New South Wales) (7.48 pm)—I seek leave to incorporate the speeches of Senator Kirk, Senator Carol Brown and Senator Carr.

Leave granted.

Senator KIRK (South Australia) (7.48 pm)—The incorporated speech read as follows—

I rise to talk about the Anti-Terrorism Bill 2005, and to voice my concern that certain aspects of this bill may be constitutionally invalid. Other provisions may lead to a significant erosion of civil liberties in Australia without adequately addressing the terrorist threat.

As a member of the Senate Legal and Constitutional Committee, I have had the benefit of hearing over 300 witnesses and submissions for the recent inquiry into this bill. That inquiry confirmed that more needs to be done to ensure that this bill will addresses the terrorist threat, respect civil liberties and meet potential constitutional challenges.

The inquiry went ahead despite the Howard Government’s original plans to stealthily introduce the legislation and guillotine it on Melbourne Cup Day, then ram it through the Senate after a farcical one-day hearing.

Rather than openly discussing solutions to a very serious threat to Australia’s security, the Howard Government tried to introduce this legislation by stealth and evade public scrutiny. It made a mockery of the goodwill of the Premiers of the Australian States and Territories, who took a bipartisan approach with the Government to put in place effective legislation to deal with terrorism.

This Government has seriously failed the test of transparency.

For many people, the underhanded manner in which the Government tried to introduce this bill sounded the initial alarm to the dangers that lurked in the provisions themselves.
Only the pressure applied by Labor, the states and concerned members of the community forced the Government to shelve its original plans and give the Senate Legal and Constitutional Committee two weeks to scrutinize the bill.

John Howard’s methods of introducing this bill stand in stark contrast to the bipartisan approach taken by the Australian Labor Party. Labor is determined to get this legislation right to provide Australians with the most effective protections that legislation could possibly provide against the terrorist threat. However, it is crucial that this bill preserve the fundamental freedoms which are the hallmark of democracy in this country.

Labor’s determination, and that of other groups and individuals in the community, has forced the Howard Government to make much needed changes to the bill that was first made public by ACT Chief Minister Mr Jon Stanhope. Today’s legislation contains a number of safeguards that were absent from that legislation. The repugnant shoot-to-kill provisions have been scrapped, and the processes for issuing control orders were improved.

However, the Committee still considered that the bill had a number of shortcomings. Last week, the Prime Minister and the Attorney-General, faced with an embarrassing revolt from within the Coalition, introduced amendments to head off lingering concerns over the bill’s impact on civil liberties.

Under some of the changes, both parents of young detainees held under preventative detention orders must be informed why their child is being detained, and detainees under 18 must not be held with adults unless exceptional circumstances apply. Police must also inform detainees that they can contact family members, and must assist a detainee choose and contact a lawyer.

However, Labor is still concerned about aspects of this bill, including four in particular —

One — The constitutional validity of various aspects of the bill;
Two — The inadequacy of certain features of the judicial review mechanisms;
Three — The grossly inadequate sunset clause; and

Four — The inclusion of the sedition laws.

These concerns were also highlighted by various witnesses to the Senate Committee in its inquiry into the bill. The Government’s has provided no answers to allay these concerns.

I am particularly concerned about the constitutional validity of the control order and preventative detention measures in the bill. If these are not addressed, a successful legal challenge to those provisions may be mounted which will undermine the bill’s anti-terrorist objectives.

Numerous witnesses at the inquiry doubted that the control order and preventative detention measures were consistent with the specific requirements of Chapter III of the Constitution.

Control orders may be issued by the Federal Court, the Family Court of Australia or the Federal Magistrates Court.

Persons placed under a control order can be subject to a range of constraints. The most onerous of those could see a person placed under house arrest for a year. Other restrictions include preventing a person from communicating with various other people or groups, requiring a person to wear a tracking device, forcing them to provide fingerprint samples, or to be photographed.

Witesses to the inquiry from the Attorney-General’s Department informed the Committee that the Solicitor-General and the Chief General Counsel for the Commonwealth had assured them that the bill is consistent with the Constitution. The Committee was told that the power to issue control orders was a judicial function due to its punitive effects. As a result, the Commonwealth viewed the making of control orders as an appropriate power to be exercised by Chapter III courts in the exercise of the Commonwealth’s judicial power.

Without access to that advice, it is difficult to see how this could be the case.

The Law Council of Australia, which is of course the peak body representing the legal profession in this country, submitted that this bill represents an invalid attempt to confer non-judicial power on Chapter III courts. Other witnesses supported this view that the power conferred on the courts is non-judicial.
The constitutional problems that this bill presents stem from its procedural deficiencies. As the Law Council and other witnesses observed, the making of control orders does not conform with the rules of natural justice, and therefore cannot be classified as an exercise of judicial power.

Similarly, in my view there are significant concerns about the constitutional validity of the preventative detention order provisions.

Preventative detention orders may be issued by a range of organisations and individuals – including:
- members of the Australian Federal Police above the rank of superintendent in relation to initial preventative detention orders;
- Federal Court judges;
- State/Territory Supreme Court judges;
- retired federal judges or State Supreme Court or State District/County court judges; or
- a President or Deputy President of the Administrative Appeals Tribunal.

The power to issue preventative orders is a non-judicial function. The Attorney-General’s Department advised the Committee that they received legal advice indicating that individual Federal Court judges could issue a preventative detention order in their personal capacity. The Commonwealth hopes that this arrangement will avoid the constitutional problems that would arise by having a judicial officer exercise non-judicial power.

However, there are some significant problems with the Government’s reasoning. There is a considerable potential that the non-judicial function of issuing a preventative detention order could be considered incompatible with the role of federal judges and the State or Territory judges vested with the Commonwealth’s federal jurisdiction.

The Gilbert and Tobin Centre of Public Law informed the Committee that preventative detention orders may be incompatible with a judge’s judicial functions because it has the potential, and I quote —

To seriously compromise the integrity, independence and reputation of judicial office, undermining public confidence in the judiciary.

Witnesses from the Gilbert and Tobin Centre also argued that the bill has the potential to undermine public confidence in the judiciary because, and I quote —

It requires the making of an order to detain a person absent a finding of criminal guilt or even the laying of a charge of criminal offence.

What has been the Government’s response to these questions? It has simply indicated that it is satisfied with the advice that it has received that the bill is constitutional, without explaining why. It is deeply regrettable that the Government has seen fit to not reveal any information that could shed some light on whether these aspects of the preventative detention orders or control orders are constitutionally sound. It is lamentable that the Government has not even bothered to explain why it feels this legislation is constitutionally sound. But it is hardly surprising. It reinforces the fact that at every step in introducing this legislation, the Government has chosen secrecy and duplicity over openness and bipartisanship.

The constitutional validity of the bill is an extremely important question. If the control order and preventative detention order provisions are found to be unconstitutional, a huge part of the Government’s strategy in dealing with terrorism may be put at risk. The cost of such a failure for Australia’s national security is too high – it is absolutely critical that any limitations in this legislation be addressed.

The second concern I have in relation to this bill are the judicial review mechanisms of the preventative detention orders, which are set out in clauses 105.51 and 105.52.

Compared to the ill-conceived mess that was the first draft of this legislation, this bill incorporates further safeguards to people seeking judicial review. For example, the bill more clearly spells out the rights for people held in detention to access judicial review. It also places additional requirements on law enforcement officials to show that preventive detention orders are proportionate to the threat of a terrorist attack, and permits detainees to know the reasons for their detention.

While Labor welcomes these additional safeguards, in my view the judicial review procedures are still inadequate.
An application for review may be made to the Security Appeals Division of the Administrative Appeals Tribunal for a review of an initial decision made by an issuing authority to make a preventative detention order. However, a person may only make such an application after the order has expired. There is no justification for denying merits review during the course of detention. This restriction is especially odd given that a person can obtain judicial review by way of constitutional writ or through the common law to challenge a preventative detention order while they are detained.

There is a need, however, for the existing avenues for judicial review to be further tightened. Access to review under the Administrative Decisions (Judicial Review) Act 1997 has been denied in the bill under clause 105.51(4). As the Law Council of Australia has observed, it is therefore, and I quote—entirely unclear whether and what type of proceedings could be brought in the Federal Court.

The bill provides for review of a Commonwealth preventative detention order by a State or Territory court where a corresponding state preventative detention order is made under clause 105.52. The court may require that the Commissioner of the Federal Police provide to the court and the parties the information that the initial decision-maker relied upon to make the preventative detention order.

However, there is no similar option for the AAT to insist upon the provision of similar information. It is therefore difficult to see how the AAT can conduct a meaningful merits review of a preventative detention order.

Again, there has been no explanation from the Government as to why the AAT should be denied this information. In my view, the bill should be amended so that the AAT can require that the Commissioner of the Federal Police provide to it and the parties the information that was used by the person who made the order at first instance.

In the time that I have left to me, I want to reaffirm my opposition to the antiquated sedition laws contained in this bill, and to the grossly insufficient sunset clause that has been attached to this bill.

The Committee report on these matters was clear—the anti-sedition laws should be scrapped entirely from this bill, and the remaining provisions should be subject to a five year sunset clause.

The Howard Government has maintained that the proposed anti-sedition provisions have been introduced to ‘modernise’ the existing sedition laws.

Opposition to these laws from witnesses to the Senate Committee and by the public has been overwhelming. They are an affront to freedom of speech. They are intrinsically foreign to a range of professions and interests that are fundamental features of Australian society—including the media, the arts and the entertainment industry.

While the Howard Government is bent on introducing a raft of anti-sedition laws, other countries have been abandoning the laws of sedition. As the Gilbert and Tobin Centre of Public Law submitted to the Committee, the UK Law Commission considered the crime of sedition to be unnecessary. The Gilbert and Tobin Centre also noted that Canada and New Zealand have also omitted sedition offences entirely following reviews in those countries.

Similarly, Mr Robert Connolly from the Arts and Creative Industries of Australia informed the Committee of the operation of sedition laws outside Australia, saying, and I quote:

The countries that have repealed sedition laws, or made them inactive, are: the United Kingdom and the United States. The countries that have active sedition laws that have been used or revised in recent years are: China, Cuba, Hong Kong, Malaysia, North Korea, Singapore, Syria and Zimbabwe. I imagine that it is perfectly clear to the majority of Australians which list we feel Australia should belong to.

Just as the anti-sedition laws and the sunset clause have left much to be desired, so has the Government’s response.

The Prime Minister and Attorney-General caved into the pressure of his own party last week and introduced some small amendments to the legislation. Sedition offences now stress that incitement to terrorism, violence or hostility to Australian troops must be intentional. A ‘good faith’ defence
for journalists has been introduced to protect reports made in the public interest.

While these changes are to be welcomed, they fall well short of the response that the Government should take.

Labor advocates the removal of the anti-sedition laws from this bill subject to a thorough public investigation by the Australian Law Reform Commission, which can then determine whether such laws are needed in the fight against terrorism.

The inadequacy of these laws has been shown by the Attorney-General himself. He has stated that these laws will be reviewed next year by the Australian Law Reform Commission, even before they have been passed. Why is the Attorney-General now rushing to have these laws rammed through the Senate now? Why not conduct such a review now? Why not subject these laws to a review befitting a rational process of law reform? It simply defies common sense to introduce laws that the Government knows to be flawed.

Similarly, I consider the ten year sunset clause to be potentially dangerous. Given the potential of the bill to impact adversely on civil liberties, a short period is clearly more appropriate.

In making my concerns about this bill known, I do not seek to resile from the need for legislation that can address the terrorist threat.

In his second reading speech to the House, the Attorney-General stated that these laws ensure, and I quote:

That we have the toughest laws possible to prosecute those responsible should a terrorist attack occur. Second and of equal importance, the bill ensures that we are in the strongest position possible to prevent new and emerging threats, and to stop terrorists carrying out their intended acts.

Labor acknowledges the need for legislation that reflects these principles and can address a terrorist threat before such an act can be carried out. The best, indeed the only way to ensure that these objectives can be met, is to thoroughly investigate all of the provisions of the bill and to make improvements when they are needed.

And improvements to this legislation are urgently needed. The Constitutional validity of the control orders and preventative detention orders is far from assured. Consequently, our response to the threat of terrorism has been imperilled.

Labor supports tough and effective anti-terrorist laws in the interest of national security. But it is important that we get the legislation right as soon as possible. Only then will we have strong laws that provide for the protection of Australians and our nation.

Senator CAROL BROWN (Tasmania) (7.48 pm)—The incorporated speech read as follows—

I would like to start my contribution to this debate, by commending the Senate Legal and Constitutional Legislation Committee on its report into the provisions of the Anti-Terrorism Bill (No.2) 2005.

I must say that its task was made difficult by the amount of time this parliament has had to review and debate this bill.

This Government has embarked on a very flawed process on a bill which will have a fundamental and profound impact on our society and our values.

The committee’s recommendations identify key concerns and required safeguards and I commend them to this Chamber.

While none of us in this Chamber have any intention of losing the fight against terrorism, it is important to recognise we are crossing a threshold today.

We are pushing our legislative reach and our law enforcement activities further into the traditionally safe ground of civil liberties in this country. Indeed, it is incumbent upon all of us in this place to give heavy weight to the considerations of liberty, freedom and the rights of all Australians as we debate the merits of the Anti-Terrorism Bill (No 2) 2005.

We are told by the Prime Minister that this is an unusual bill for ‘unusual times’. Indeed, in many respects it can be considered extreme. Extreme too, is the threat we face.

Extreme, fanatical, well financed, well trained and well resourced. But we should never forget that the laws we enact today may have grave effects tomorrow. There is balancing act in front of
us. On one side we have civil liberties and on the other we have public safety. We must get the balance right, and the bill as it stands still does not achieve this.

We are assured by our Prime Minister that this balance has been struck. Our colleagues in the States and Territories, after applying pressure and forcing amendments to key sections on control orders and preventative detention orders, confer. But many of Australia’s values are at stake here. Indeed, we are legislating in an area that infringes on the most basic civil liberties expected in a western democracy.

These are the very principles we hold up to those who seek to crush us with terror.

Some weeks ago we suffered an imminent, but unspecified, terror threat.

It required an immediate, amendment to the Anti-Terrorism Act and the recall of this Chamber.

When it was revealed, I like many in this Chamber took the Prime Minister at his word.

I did not have the briefings he had, I had not seen the evidence he saw.

Yet as the Prime Minister of this country he is duty bound to act in its best interests and, on matters of public safety and national security, without political consideration.

At the time of the threat, some suggested a happy coincidence between the need for this amendment and the pressure the government was under with its extreme IR proposals.

I have deliberately left that for others to comment on, but it must be said that the arrests one week later in Sydney and Melbourne, should put this to rest.

Having said that, it’s not hard to see why some were ‘uneasy’ about the threat and its origins in those circumstances.

No Senator should forget this Government’s track record of misusing ‘intelligence’ for political means.

We need only look at the Children overboard affair, and the intelligence cited to support the presence of weapons of mass destruction in Iraq to see this in action.

The timing here is certainly coincidental, but we must take the Government at its word on these matters, until there’s a substantive reason not to.

Why?

Because civil liberties and the core values of our democratic society are not matters to meddle with for political purposes.

Trifling with them can only ever be the preoccupation of a totalitarian or autocratic regime—not a highly democratic society.

Much has been written about these laws in the last few months.

Many thousands of words have been committed to paper... many minds, far wiser than mine, have spent many hours pondering the myriad clauses, precedents and consequences of this bill.

They have all served to underscore the seriousness of the endeavour in front of this chamber.

These are not steps we can take lightly or approach simplistically.

That’s why the original draft of this bill created such controversy.

As one commentator for New Matilda put it: “The first draft of the Anti-Terrorism Bill 2005 would abolish the most fundamental right held by citizens of this country— the right to personal liberty in peacetime, which currently exists for all of us, except for persons charged with criminal offences or for persons suffering from serious mental or infectious illness.” (Kirk McKenzie, ‘Howard’s Choice — A Police State?’ New Matilda, November 2 2005, article id 1087.) I think we would all agree that the laws before us now are a big improvement on the original draft presented to the State and Territory Leaders last month.

Thanks to the State and Territory leaders, gone are the shoot-to-kill provisions.

Beyond that there’s been an injection of sorely needed judicial review.

Moves have also been made to address the possible constitutional issues involved with judges and magistrates helping police to detain suspects in the absence of an offence.

But concerns remain.
There is little doubt that this year has refocussed our attention on the threat posed to Australia by terrorism.

Who could forget the scenes of uncertainty and fear on the faces of those caught in the London bombings on July 7 this year. 52 people died and more than 700 were injured in this terrible attack. Who could forget that just over a month ago, terror struck again on Australia’s doorstep, in Bali. But equally, who could forget the death of Jean Charles de Menezes, an innocent Brazilian citizen, at the hands of British Police, 2 weeks after the London Bombings; a case of mistaken identity, a terrible mistake. This mistake saw a man shot at least 5 times in the head at close range on the suspicion of involvement in a potential terrorist act. What his tragic case shows us is that mistakes can be made.

Even with the best intelligence, even with the best trained and most professional law and counter-terrorism officers on the ground, mistakes can and do happen. All the more reason, then to ensure the scope of our laws extends in every possible, conceivable and imaginable way to prevent mistakes like this in Australia. The more we devolve executive and legislative power to our law enforcement and intelligence agencies, the lower the level of control this parliament has over outcomes against terrorism in this country.

In saying this, I am not lamenting the lack of operational control, but rather the role of checking and balancing the exercise of power in this area; keeping it accountable.

Therefore, it is my firm belief that if we are to devolve powers in this area, we must circumscribe them with appropriate and rigorous safeguards and accountability measures.

Today we are legislating to save innocent Australian lives from terrorist carnage. But as we do this we should not sacrifice the freedoms that form the backbone of the Australian way of life.

There’s a clear question we need to ask as we debate this bill:

• If we restrict our civil freedoms,
• if we abdicate the established principles of free speech, free association, and freedom of political expression in Australia,
• if we toy with the presumption of innocence, and the right to rigorous judicial review and the rule of law in our society

has terrorism already won?

These principles are the building blocks of our society. They are the respected and cherished foundations of our lifestyle, our values and our intellectual world.

Beyond this they are the very principles we advocate globally. Let us ensure we are not hypocrites to the cause. Let us not preach globally on one hand, what we restrict at home on the other. No one doubts our recent history has been characterised by the ongoing threat of terror against this nation. No one can doubt the ‘unusual’ and extreme circumstances we are faced with. But these times are transitory in comparison to the centuries it has taken to develop the principles that underpin our society. We need tough laws in this area, but we need tougher safeguards. Premier Rann from South Australia put it well when he said; “you can’t pussyfoot around when you’re dealing with the threat of mass murder. And that’s what terrorism is. We can’t pussyfoot around in dealing with terror, but we can and must subject the legislative decisions we take in this Chamber to significant and detailed scrutiny. We must ensure the arrangements we put in place have appropriate safeguards against their misuse or abrogation.

We must protect our lifestyle, our culture and our values, as well as ourselves.

I do not resile from the belief that securing this country from terrorist threats and ensuring Australians live in freedom from fear are amongst the highest of all Government responsibilities.

But while the circumstances we face now are unique, so too are the values of our society.

We should not use legislation like this to cover the tracks of a government that is failing to deliver practical anti-terror measures in this country. In deed, despite its much vaunted security ‘credentials’, the evidence shows that in the four
years since September 11, this Government has still not implemented the necessary, practical measures to adequately protect Australians from terrorist threats.

We need only look at the gaps it has left in aviation security – identified by Sir John Wheeler – for proof. This government has failed:

To ensure that 100% of all international checked baggage receives appropriate x-ray examination;
To ensure our regional airports receive much needed security upgrades;
To ensure effective and coordinated security arrangements at all Australian airports; and
To ensure Aviation Security Identity Cards are in use and are accurate.

Our ports tell a similar story of neglect. Here the Government is still:

Allowing 90% of containers to move through our ports without being x-rayed — possibly more so with the Minister’s bungling of the new Integrated Cargo System;
Failing to enforce requirements that inbound ships identify their crews and cargo 48 hours before arriving in port; and
Providing single voyage permits for ships-of-convenience to carry explosives and dangerous substances around the Australian coastline and into our ports.

Indeed across the board we see a litany of failure on behalf of this government to enact practical measures to protect Australia from terrorist attack.

It has failed to ensure security on our mass transit systems — particularly our urban rail networks;
It has failed to secure our borders from unauthorised landings and illegal incursions; and
It has refused to establish a Coastguard to properly monitor our coast or a Homeland Security Department to strategically coordinate our responses to terrorism across the nation.

The evidence shows this Government is ‘big’ on the rhetoric of fear, the rhetoric of panic.

But it is microscopically ‘small’ on practical measures to safeguard this country.

Whilst it is a truism that we need legal tools and powers to effectively combat the terrorist threat in this country, the necessary follow-on is practical measures, well considered, well resourced and well managed.

What this means in real terms is:
effective screening at regional airports;
x-ray examination of all out-bound baggage; the monitoring of flag of convenience ships and their crews; and
the better protection of critical energy, transport and communications infrastructure.

Yes, we need these laws, but more importantly, we need to concentrate on intelligence gathering, surveillance, investigation and detection.

Laws in isolation don’t prevent terrorists. Technology, rigorous processes and people do.

This legislation is but one piece of the puzzle.

This government needs to turn its attention now to the practical elements of Australia’s counter-terrorism efforts, rather than purely the legal.

What’s changed: Despite early attempts to sneak this legislation through on Melbourne Cup Day, I was relieved to see the Government cave in to Labor demands for a more detailed Senate Committee examination of the Anti-Terrorism Bill (no.2) 2005. I am also glad to see, as I’ve said, the abandonment of shoot to kill provisions, and the much improved judicial scrutiny of control orders. In a practical sense this judicial scrutiny means a lot.

Now: only an interim order can be obtained without the person, subject to those orders, being present.

Importantly too, a summary of the reasons for an order being made will be available to the subject and can be disputed; and

in imposing control orders a judge will have to balance the need to protect the public against the effect of the order on the subject, including the loss of the subject’s liberties.

Similarly when we look at preventative detention, we find clearer rights of review; requirements to provide a summary of the reasons for detention; and
the right to judicial review of the legality of a preventative detention order.

But as the Senate Legal and Constitutional Legislation Committee Report on this bill makes plain, there is still much of potential concern in its pages. Despite the relatively short period of time that the committee had to consider this bill, it made some 52 sensible and practical recommendations.

Some of the chief recommendations are:
Recommendation 18 and 26 – recommending that the laws be subject to a 5 year, not 10-year sunset clause;
Recommendation 9 – asking that the bill be amended to authorise oversight of the preventative detention regime by the Commonwealth Ombudsman;
Recommendation 15 and 22 – suggesting that ‘hearsay’ evidence should be inadmissible for ‘continuing preventative detention orders’ and ‘continuing control orders’; and
Recommendation 27 and 28 – dealing with the archaic ‘sedition provisions’ in schedule 7 of this bill and recommending that they be dropped altogether, pending an independent review by the Australian Law Reform Commission.

Sedition:
The ‘Sedition’ provisions of the Anti-Terrorism Bill should cause all Senators concern.
These provisions are solely the initiative of the Government.
Sedition is the crime of another era in Australia.
Our Sedition laws are antiquated.
As the Chair of the Senate Legal and Constitutional Committee, Senator Payne has made clear, it is hard to be “convinced of an urgent need for the provisions in light of existing laws, such as the offence of treason’s”
Especially not when the Attorney General who brings them to this parliament concedes they are faulty and announces an immediate review of them in the very speech he gives to introduce them!
This is not the right approach to good public policy and law in this important area.

As Matthew Westwood suggested in The Australian recently:
“Although sedition is still in the criminal code, our open society ignores it. It is taken for granted that writers and journalists will sharpen their pens against abuses of power, that dissidents will put forward alternative points of view, that satirists will prick pomp and political circumstance, and that artists will hold up a mirror to folly and hubris. Not only are these freedoms an essential safeguard against repression, they encourage a richer variety of voices in public discourse.”

He is not alone in suggesting this.
Other lawyers, journalists, commentators, arts and entertainment figures and civil libertarians have suggested that these provisions have the very real risk of restricting public comment, artistic expression and the right to peaceful protest in our society.

Given these risks and the lack of urgency associated with the sedition provisions in this bill it makes absolutely no sense to rush them through.
The sedition provisions should be removed.
They have no place here, and cloud and confuse this bill’s intent to protect the Australian population from terrorism with the inference that to do so requires the protection of the Government from criticism and the constraint of what Australian satirists, columnists, artists or protestors can say.
That’s not protecting Australia’s way of life, it’s a direct attack on it.
We are a larrikin race. A people of satire and parody. When required, we are rapier-like in our criticism and mockery of those in positions of influence or power.

Australians have an historical and healthy disrespect for authority, and their parliamentarians should keep it that way.
Whilst I doubt the intention of these provisions is to quell free expression, there is nevertheless the risk that they may.

Accordingly the only proper course is to strike them altogether from this bill, as the Senate Committee, the ALP and others have recommended.
It’s patently clear to everyone other than the Attorney General that these sedition provisions should be removed.

It’s bordering on the ridiculous to proceed with them when they will be subjected to immediate review.

In fact it’s hard to recall a comparable precedent for this approach in parliamentary history.

We cannot allow this situation, where parliament is passing a law that impinges on basic civil liberties in this country, to unfold when the Government has already conceded that the law needs to be changed.

That’s why Labor is seeking to have these provisions removed.

It is my hope that the Government will finally agree that its position on sedition is absurd and support the Labor approach.

I hope it will realise that if it has the will to address Australia’s antiquated sedition laws, it should introduce stand-alone laws to do so.

Let parliament debate the issue separately from the Anti-Terrorism Bill and decide clearly and unequivocally what the modern definition of the crime of sedition is in Australia.

As Richard Harris of the Australian Screen Directors Association said in a recent opinion piece for the Sydney Morning Herald:

“Sedition laws are internationally recognised as anti-democratic laws. In the past 40 years countries that have repealed such laws include Canada, Ghana, Ireland, Kenya, New Zealand, South Africa, Taiwan, the United States and Britain. Countries that have either updated or used their laws during this time include China, Cuba, Hong Kong, Malaysia, North Korea, Singapore, Syria and Zimbabwe.”

The obvious question, and Harris puts it, is which list does the Senate want Australia on?

I urge Senators to consider this question, consider the Committee’s recommendations and support Labor’s amendments to this bill.

Senator CARR (Victoria) (7.48 pm)—
The incorporated speech read as follows—
The key features of this bill include:

- Expansion of the grounds for the proscription of terrorist organisations, to include organisations that ‘advocate’ terrorism
- A new offence of financing terrorism
- A new regime to allow for ‘control orders’ to authorise the overt close monitoring of terrorist suspects
- A new preventative detention regime to allow detention for up to 14 days without charges to prevent a terrorist act or to preserve evidence of such an act
- Wider police powers for warrant-less search and seizure in Commonwealth places and in ‘Prescribed Security Zones’
- Police powers to compel disclosure of commercial and personal information
- Updated sedition laws
- New definition of sedition
- Increased financial transaction reporting
- Obligations on individuals and businesses
- The expansion of information and intelligence
- Gathering powers available to police and ASIO.

This bill, in section 7, also provides for five new offences in regard to sedition and advocacy.

These are:

- Urging another person to overthrow by force or violence the Commonwealth government
- Urging another person to interfere by force or violence in the parliamentary elections
- Urging a group or groups to use force or violence against another group or groups where that would threaten the peace, order and good government of the Commonwealth
- Urging another person to assist by any means whatsoever an organisation or country that is at war with the Commonwealth, whether declared or undeclared
- Urging another person to assist, by any means whatsoever, those engaged in armed hostilities with the Australian defence force
- Each offence has a maximum penalty of seven years (current law is three)
This law applies to conduct which occurs outside of Australia, and in relation to any person, whether or not they are an Australian citizen.

In addition to these five new offences, the sedition section of the bill includes a new definition of sedition as any action that would:

- Bring the sovereign into hatred or contempt
- Urge disaffection against the constitution, the Commonwealth government or either House of Parliament
- Urge another person to attempt to procure a change, otherwise than by lawful means, to any matter established by law of the Commonwealth.

These sedition provisions, it should be noted, have been opposed publicly by over 30 senior and eminent lawyers, legal academics and retired judges. They have been opposed by at least two major daily Australian newspapers, as well as three state premiers and territory leaders, not to mention a number of government backbenchers.

The bill is not compliant with the international covenant on civil and political rights. Most democracies have in fact done away with sedition laws, including Canada, the United Kingdom, New Zealand, and the United States.

Furthermore, the procedural safeguards provided for in this bill have been described by the Senate committee as being inadequate.

Under those provisions:

- Detainees lack the right to be provided with detailed reasons and with the factual material on which an order is based and which impede access to a federal court
- There is no external ongoing oversight of conditions of detention and standards of treatment
- Preventative detention without charge can be imposed for up to 14 days
- Contact with the outside world is prohibited
- Restrictions are imposed on the lawyer/client relationship

Under the control orders (section 4):

- There are restrictions on the right and access to evidence
- There is no limitation on the number of successive control orders
- There are extensive restrictions on work, travel, communication, association, possession or use of certain articles or substances, home detention and electronic tracking devices.

These restrictions are much more extensive than those available under current state and territory legislation. As the Senate committee notes in its report on page 69, these provisions “infringe human rights under the ICCPR; [including] freedom of movement, freedom of privacy and reputation, and freedom of association and religion.”

Two very separate points need to be made about this Anti-Terrorism Bill. First, the threat and fear of terrorism is real. Second, the Howard government is using it to whistle up the dogs of fear.

It is true that we live in uncertain times, but history teaches us that there are very few times which are not uncertain. It is the responsibility of government to take reasonable measures to protect its citizens. It is not the role of government to encourage fear, insecurity and division.

The bill before us purports to address the urgent issue of Australian security - but it also purports to safeguard the democratic values we value as central to our way of life. You do not, however, protect those democratic rights by immediately giving them up. You do not cede your democratic rights in order to protect them.

You do not safeguard the health of the body politic by forcing it to commit suicide.

But we have, sadly, been dragged into a grubby little game of fear politics. No government should ever have the smell of political opportunism when it comes to issues as critical as security - but this government has the whiff of opportunism all over it.

The given intention of this bill is to protect us and our rights, but it is in fact taking major rights away, and - frighteningly - in a manner that will quash opposition and divide society. This is how the game of fear works.
Anybody who opposes the government, anybody who raises their hand and says ‘no’, is immediately branded as against ‘us’, as though, they, the government are the sole proprietors of what it is to be Australian. It is an arrogant appropriation of national identity and national interest.

Since the post-war years, Australia has been a multicultural, open society. It has grown not as a divided society, but an inclusive one. The game of fear does not come naturally to us. And there has always been enough goodwill in the Australian community to enable progressive people to argue the merits of multiculturalism, diversity, tolerance and harmony.

Sadly, after nine years of deeply conservative, ideologically driven government, much has changed and the whole culture of Australian society is being tugged dramatically in a different direction.

Now the Howard government is using scare tactics to divide the community and justify some of the most extreme policies and laws this country has seen.

This approach has allowed the unleashing of thoughtless and ignorant prejudice in our society. The Islamic communities have borne the brunt of this. In the game of fear and prejudice, very few bother to distinguish between religious and secular; people from different national backgrounds; different political viewpoints; different cultural practices and beliefs.

This government, often using neo-McCarthyist language reminiscent of the cold war, has no qualms about using xenophobia, racism and insecurity, for its own purposes. It is prepared to play to the darkest side of Australians’ fears.

We’ve had more than one senior government minister make comments recently such as ‘Moslems should accept Australian values or get out’. One has suggested that citizenship rights can be taken away from people who don’t toe the line according to this government. Disgracefully and stupidly (as if the French example were not enough), a couple of government backbenchers have even suggested that girls be banned from wearing headscarves in school.

This government claims that it wants to defend democratic values, yet at the same time they promote the most authoritarian version of what they believe it means to be Australian. They want to replace a society built on tolerance and diversity, with a rigid mono-cultural model, arrogantly assuming that they and they alone have to right-and the wisdom - to define what it is to be Australian.

Like all self-appointed protectors, they address us as if were children - we don’t know what’s good for us, but they do. They, who want to take away some of the most basic Australian rights such as the right to a decent minimum income, the right to strike, the right to organise through trade unions, the right to criticize the government and its policies.

Central to all this is the slippery game of fear. Recently we had a special session of Parliament called to pass an amendment to the anti-terror laws. The Senate was summoned to change the word ‘the’ to the word ‘a’. It has been suggested by the cynical that this dramatic action was a ploy to distract people from other issues. These other issues include the terrible and draconian laws the government has either already passed or is trying to pass in relation to worker’s rights and the rights of vulnerable people such as sole parents and workers with disabilities.

Of course the safety of our community and the right of all Australians to live in peace are paramount, but we can only wonder whether this could be achieved without people being told regularly how alarmed we should be, and how much they should mistrust their neighbours.

The extreme nature of many parts of this bill means that other important issues are at stake. All Australians, are entitled to a presumption of innocence, to a fair trial, to the due processes of law and the justice system. These are real Australian values, and they are under threat.

In the name of security and safety, this bill contains some of the most frightening attacks on freedom of speech and expression. The sedition provisions in this bill, especially, will not only give police, but political leaders, unprecedented powers. This is why Labor will seek to amend these aspects.

Anyone, for example, who publicly comments against the actions of the government, police or
judiciary could be charged under the sedition provisions, and potentially jailed for seven years. This would not only affect the rights of ordinary Australians, but would seriously limit the ability of the media to scrutinise the government and the artistic community to reflect its society.

This is the game of fear at its most slippery. Draconian measures that old, cold-war eastern bloc countries would have heartily approved of come wrapped in the language of community concern. Equally, a number of governments in South America, aided and abetted by leaders of the western alliance, used fear of communism to justify their gross abuses of human rights.

But it is a censorship by stealth. It is a sign of a government that is so arrogant, so imperious in attitude, that it arches at all criticism and seeks, by stealth, to stifle opposition - whatever form it may come in.

And they don’t even have to enact the laws, they need only create an atmosphere of fear and uncertainty surrounding the laws so that the media and the artistic community, to take one example, become frightened of saying what they really think because of the possibility that it just might land them in the slammer.

The Tory side of politics made much of the plight of eastern bloc artists during the cold war, but they now seek to enact legislation that would create similar fear, and result in the kind of self-censorship by fear that characterises any community that surrenders its rights to authoritarian governments.

The media, artists and social commentators provide a society with the touchstones by which a culture defines itself - stifle them, and you stifle that society’s conscience. And a country without a conscience becomes one that is afraid to know itself.

But this is the very real price a country pays for being dragged into the grubby, the slippery game of fear. And these sedition laws will do exactly that.

This country has a proud history of freedom of speech and peaceful political action. Is all this about to come to an end with this new definition of sedition? What can we honestly call sedition? Is a person practising sedition if they oppose the military occupation of another country? If they advocate a republic?

By using the fear of terrorism, this government is whipping up a new authoritarianism. They are promoting the view that the ‘real’ Australia is one where there is no place for cultural diversity, freedom of speech, freedom of religion, the right to dissent, or the pursuit of social justice.

They are allowing, indeed encouraging Australians to fear and turn against fellow Australians. They are helping to produce a climate in which genuine community groups are prevented from building a community centre, for example, because its neighbours are filled with fear and mistrust.

All the extreme measures taken by this government are done in the name of defending democracy. But they are the ones attacking - and needlessly - all the core universal values that define a democratic country.

We have to remember the nature of the society we are trying to defend. We need to build a society that is worth defending against the threats to its very fabric. In defending it, we need to ensure that we don’t allow our government to rip apart that very fabric, by extreme and undemocratic means.

This government does not possess a monopoly on ‘Australian values’. We have been dragged into the grubby game of fear politics for too long, we have listened to the government whistling up the dogs of fear for too long. Enough is enough!

**Senator ALLISON** (Victoria—Leader of the Australian Democrats) (7.48 pm)—I seek leave to incorporate my speech.

Leave granted.

_The speech read as follows—_

Thanks to the Government’s disgraceful act of guillotining the second reading debate on this anti-terrorism bill when it had only just started, I am not able to rise to speak nor to hear the speeches of other Senators. I will however come straight to the point. We strongly oppose this legislation and are disappointed and angry that the ALP will pass it and that the Government Senators who so criticised it will toe the line. If Labor had not been so intimi-
dated by the Government – so afraid to challenge the fear campaign waged by the Government, so fearful of being accused of being soft on terrorists, perhaps the line would have been crossed by those Coalition senators for whom the provisions in the bill are an obvious affront. But there is little point in putting your parliamentary career on the line for a vote you can’t win.

We and so many others, say this bill is unnecessary, will seriously erode civil liberties and may have the effect of actually increasing terrorism. This bill has been heavily criticised by the vast majority of those who submitted to the short inquiry, by the law council, by human rights bodies, by ordinary men and women, by senior journalists. If this bill is so good, so necessary, so urgent, why can the government not persuade anyone, other than the ALP, ASIO and the AFP, of its worth?

Why does it need to be rammed through with almost no debate if it’s so good.

Do we face the sort of threat that warrants these measures? I doubt it. It’s easy to scare people and the attack on Australians in Bali and the London underground bombings have certainly done that. Is terrorism likely to kill as many people as those who will die of preventable disease every year in Australia? Is it likely to kill as many as those who die from adverse reactions to pharmaceuticals or mistakes in our hospitals. Is it akin to the road toll? Will it match the number of people who suicide for want of mental health services?

This is not to say there is no threat but the issue is, if we are forced to give up our civil liberties, is it going to be worth it? What are the risks and what are the benefits? In undermining basic protections in the criminal justice system there ought to be very good reasons and it ought to be effective.

I think the war on terror was a pretty silly notion. Terrorism comes in many forms. There is no clearly defined enemy and there are no threats or deterrents that can possibly be effective against every potential suicide bomber unless we are prepared to strip search every person entering a crowded space.

Lack of justification
The Federal Government has still not provided the Parliament with proper justification as to why these proposed changes are necessary.

We are told they are in response to the London bombings this year.

Why is it then that Australia’s terror alert levels have remained at medium ever since the events of September 11?

What did change and why do we now need drastic and archaic laws that severely curtail basic rights and freedoms?

The recent raids in Sydney and Melbourne have demonstrated that the current laws are adequate and that suspects can be locked away and their crime prevented.

The bill mirrors the preventative detention and control order provisions in the UK legislation but it lacks the safeguards provided in the UK. Both the Human Rights Act and the European Convention on Human Rights provide protection for human rights and civil liberties.

The Howard Government doesn’t think we need any safeguards. The presentation by the Attorney General’s Department in one of the Sydney hearings made that clear.

In the absence of a Bill of Rights Australians are going to have their rights and freedoms infringed.

The Democrats have been pressing for years for a bill of rights but now the need is urgent. As the chamber would know, Senator Stott Despoja has a Private Senators Bill sitting on the notice paper awaiting debate and before that it was in the name of Senator Brian Greig and before that Senator Sid Spindler.

I will limit myself to a few issues – those that are a serious departure from our key tenets of a liberal democracy - how constitutionally fraught it is, the innocent people most at risk of getting terrorised by the powers of the police and ASIO, the sedition provisions that will limit free speech and silence dissent.

The departure from key principles of a liberal democracy
Firstly, the bill offends against that basic principle - the presumption of innocence. That is - individuals are presumed innocent until proven guilty
in a court of law, upon adequate proof. The presumption of innocence in this country once protected from coercive powers individuals presumed innocent.

This bill lowers the threshold for the use of coercive powers and, by implication it departs from the presumption of innocence. Coercive powers will apply to a much wider range of individuals - people who can be subject to preventative detention, control orders and compulsory questioning.

There are implications for an individual’s freedom of political and religious association and belief, because ‘terrorism’ offences will now relate to a person’s ideological and/or religious motive.

If all that is needed prior to the exercise of coercive powers is a possibility of an individual committing a ‘terrorism’ offence, it is quite possible that evidence of the person’s political or religious beliefs alone would suffice.

The bill has even more direct attacks on political freedoms. The widening of unparalleled powers to ban ‘terrorist organisations’ under the Criminal Code to cover ‘organisations that advocate terrorism’.

Organisations that publicly support independence movements could be vulnerable to proscription. There is no clear definition in the bill that distinguishes organisations of freedom fighters from those which advocate acts of terrorism.

Another important principle breached by several of these proposals is the right to privacy. The loosely-worded proposal to ‘provide access to airline passenger information for ASIO and the AFP’ puts once-private information into the possession of police and security organisations.

The ‘notice to produce’ regime could result in serious incursions into the privacy of individuals. Any records of an individual could be accessed as of right by ASIO and AFP, without a warrant.

And of great concern to the Muslim community is the fact that the powers granted under the bill are likely to be exercised in a discriminatory fashion.

All individuals charged so far with a ‘terrorism’ offence are Muslim and all groups that have been proscribed as ‘terrorist organisations’ under the Criminal Code are organisations that espouse a connection to Islam. So it is not unreasonable to expect that the exercise of these new powers will disproportionately affect Muslim people.

Scratch the surface of many Australians and you will find racial and cultural prejudice and ignorance. Pauline Hanson proved that. Police commissions and investigations for decades have proved that power corrupts in the police force as elsewhere. Taking away suspect persons’ rights under these laws makes them extremely vulnerable.

In so targeting Muslims, this bill breaches the principle of equality before the law and is a serious erosion of Australia’s commitment to multiculturalism. A whole class of people is being placed under suspicion.

**Constitutionally fraught**

Secondly, preventative detention orders and control orders – both punitive in nature - where non-judicial bodies can order detention, are at odds with the separation of judicial power implied in the Commonwealth Constitution.

The Prime Minister admits to constitutional problems but managed to circumvent them by securing the cooperation of States and Territories and making the highly arguable claim that the bill is preventive, not punitive.

Even if the Federal Government gets the States and Territories to implement preventive detention, this does not completely remove the constitutional limitations in question. Advice to the inquiry suggests these limitations may also apply to the States but to a lesser degree.

**Mental Health**

I mentioned earlier the vulnerability of people with mental illness getting caught up in these draconian laws, as they already do in our criminal justice system where they are punished for their illness.

Queensland psychiatrist Doctor Ian Curtis says he fears the nation’s courts could become clogged with cases people with mental illness, who innocently run foul of the laws.

He says

The problem with the complexity of the debate about the terror laws and the problems about sedition and terrorism and so on, is that there are people in our community who
are just struggling on a day-to-day basis to survive, because we're not providing ade-
quate medical services for them.

We've already seen, with the detention centres, how people have suffered in detention, how children have suffered in detention, how people - Australian citizens - have been de-
ported and have been held in detention centres, because they've been caught up in a
system that they could not deal with. And very often these are the most vulnerable
members of our community.

…….. when you bring in very complex laws, to deal with social behaviour, and you're dealing with a group of people who are hav-
ing behavioural problems, as a manifestation of true illness, these are the people who are going to suffer by incidentally, accidentally, becoming embroiled in things that they don't understand, or being easily led by other people into situations that they don't compre-
hend.

I think in the current situation, where we are rushing fearfully into new laws, that we are losing voice, choice and safe prospect, be-
cause the community is not being consulted. We have situations where the parliamentari-
ans are complaining that they haven't been consulted about these new laws.

Well, if the parliamentarians don't understand the laws that they are passing, what chance has a person who's suffering from a mental illness of schizophrenia or a major depressive disorder?

We already know that throughout Australia people with mental... suffering mental health harms, are already clogging up the judicial system. We have had a cost shift from the health system to the judicial system.

The judges, the sentencers, who operate the courts, they know it's happening. Everyone knows it's happening, no one's doing any-
thing about it.

Now, creating new crimes by writing new laws, which is what is happening now, is simply going to clog the system up even more. I am also particularly concerned pre-
ventative detention orders and control orders may have on mentally ill people who may be unwittingly caught by these punitive and ar-
chaic provisions.

The chamber is no stranger to the cases of Corne-
lia Rau and Vivian Alvarez Solon who were both victims of bureaucratic bunglings and a punitive
culture, encouraged I might say by Ministers who liked to refer to asylum seekers as illegal non-
citizens. We found that the system lacked ac-
countability and transparency and so it is with this bill.

As Democrats spokesperson on Health and Chair of the Senate Select Committee on Mental Health, I want to see strong protections for people with a mental illness who might be detained because of bizarre even threatening behaviour to those un-
trained in providing clinical support for people with mental illness. What can they expect? To be thrown into seclusion where their condition would no doubt worsen?

HREOC says there are serious consequences of restricting contact if a person has a mental illness and is cut off from their support mechanism. It is their view that coupled with being confined; the con-
sequences are potentially dangerous for the person concerned. A case on point which they referred to was of Keenan v United Kingdom provides a tragic illustration of why the availabil-
ity of such a remedy is so important.

Mr Keenan was a prisoner, who was subjected to cruel and inhuman punishment and subsequently hanged himself. The cruel and inhuman punishment involved a period of relatively brief segre-
gation detention in circumstances where Mr Keenan was suffering from a mental illness and was at risk of harming himself. He subsequently killed himself within 24 hours within the com-
mencement of that punishment.

The UK argued that Mr Keenan had available to him a range of remedies, including judicial re-
view, a complaint under the prisons complaints procedure or complaint to the ombudsman. How-
ever, the Court observed that none of the reme-
dies which the UK relied on would have produced any result until after the detention order had come to an end.

Similarly, relief is only afforded to detainees un-
der this bill once the preventative detention order
The need for mental health support and services are perhaps most crucial all through the duration of the detention and not just post detention. This is especially seeing that accompanying State and Territory legislation may have the person detained for a period of up to 15 days.

The Human Rights and Equal Opportunities Commission (HREOC) argued in their submission that the bill leaves people who are subject to preventative detention orders in a position which is parallel to that of Mr Keenan. They point out that:

- State and territory courts have no jurisdiction over preventative detention orders while they are in force, except in cases where a person is simultaneously detained under a federal and a state PDO. This then leaves judicial review in the Federal Court under section 39B of the Judiciary Act or in the High Court under section 75(v) of the Constitution.

- While the AAT does have jurisdiction to review the merits of a PDO, an application cannot be made to the AAT while the PDO is in force. As such AAT review is essentially limited to awarding compensation after the fact. The ICCPR requires that such compensation be available to a victim of unlawful arrest or detention. However, the provision of a right to financial compensation does not supersede the (arguably more significant) right to be released from detention which is unlawful or disproportionate.

- The bill provides for a right to complain to the Commonwealth Ombudsman. However, the ombudsman has no power to make binding recommendations. The Human Rights Committee has indicated that such a non-binding complaint mechanism does not provide an effective remedy for the purposes of the ICCPR.

- The bill envisages that the ongoing need for a preventative detention order will potentially be reviewed on a number of occasions (each time an extension is sought, when a continuing preventative detention order is sought and in any application for revocation). However, the detained person (or their lawyer) has no right to appear before the issuing authority on those occasions. They are able to make representations to the Nominated AFP Officer – but that person is under no obligation to draw those matters to the attention of the issuing authority. The Nominated AFP Officer must merely ‘consider’ any such representations.

This regime while unduly harsh is particularly detrimental to those suffering from a mental illness whose condition may not be diagnosed accurately or not even taken into consideration as in the case of Cornelia Rau. In her case she was labelled difficult sent to the management unit which is effectively solitary confinement instead which further exacerbated her condition.

I am also concerned about the ridiculous set of words in which detainees are allowed when disclosing their whereabouts and the penalties which will be imposed if they disclose more than is permitted. There does not seem to be any measures or exceptions which take into consideration the fact that those who are mentally ill may not be able to adequately comply with these requirements and might not be able to properly appreciate the nature of the detention which has been imposed.

**Sedition**

Finally, I would also like to briefly address sedition - another outdated and completely unwarranted provision that offends against the fundamental right to freedom of speech.

As the Chamber is well aware, the sedition provisions have provoked considerable controversy amongst academics, legal bodies, the media and even amongst Government backbenchers.

The Senate Legal and Constitutional Committee’s made recommendations to the sedition provisions which the Attorney General has now conceded and moved minor amendments.

However, it does not dispel the concerns about whether the provisions are warranted at all in Australian law. The law of sedition remains open to abuse by those wanting to silence opinions inconsistent with mainstream political views.

Eva Sallis wrote in her book ‘Art after Terror’:

“Freedom of speech is the key freedom – it is by which all other breaches of individual rights and
abuses of powers are made manifest and fought over. Freedom of speech is the test of a free society, the test that a society sees itself capable of full and open debate, and full exposure to facts. Everyone should be very worried about the long term survival of basic rights in a society when a government begins to seek secrecy, and to control what you can know and say about its actions.”

The proposed anti terror legislation will erode the civil society that Australia is proud of, this will create an environment in which injustice will not be properly debated or questioned. The bill will not only lead to profound injustices, it also introduces measures that curb our ability to challenge these injustices.

The Democrats put on record our strong opposition to this bill.

The PRESIDENT—I call Senator Bob Brown.

Senator Fielding—I would just like to make a comment by leave. Can I seek leave?

The PRESIDENT—I have already called Senator Brown. You might try to seek leave after he has finished his speech. That would be more appropriate.

Senator Fielding—I can incorporate afterwards.

Senator BOB BROWN (Tasmania) (7.49 pm)—There is a bit of confusion and disarray because we have witnessed another nail in the coffin of proper parliamentary procedure, of respect for the Senate and of respect for the democratic rights of the Australian people to have important legislation debated fully in this place. There have been a number of pieces of legislation eroding civil liberties in the name of protection from terrorism in this parliament since the Howard government took office and they have always been fully debated in the Senate. Sometimes they have taken days or weeks and the outcome has always been the better for it, usually with concessions from the government that major or minor mistakes have been picked up and that oversight of the rights of people who might fall foul of the legislation has been the better for it, but not from now on.

We now have one person in control of the Senate. That person did not even stand for the Senate. That person got fewer votes from the people of Australia than many senators. That person, Prime Minister John Howard, has made a habit of turning the House of Representatives into a rubber stamp for the executive, and now the Senate has fallen to the same disdain, to this hubris and to this haughty view that John Howard, elected representative, knows better than 76 senators or, indeed, some 240 other members of parliament, and the country, more and more, is to be run out of his office because he is so wise that he knows what is good not just for other parliamentarians but also for 20 million Australians. Even though he failed to get a majority of votes, he knows what is good for everybody else.

This upstart of a Prime Minister, who takes unto himself the self-opinionated self-deception that he knows what is good for all Australians and that he can decide which democratic, political or other right can be taken from the Australian people, is now showing his true colours. He is very small in imagination and very small in his ability to relate to how the average Australian really experiences life. We are just seeing the guillotine of the debate on the so-called Welfare to Work package, draconian legislation which is going to affect people in a way that John Winston Howard would never understand—he does not have the remotest possibility of understanding. But tonight we are dealing with his attack on political rights in Australia.

I will briefly look at two papers—papers not unknown to be friendly to a conservative viewpoint—commenting on that today. In the Australian Financial Review, Geoffrey Barker has this to say:
The fact is that Australians will, among other things, be subject to preventive detention for up to 48 hours, to control orders for close monitoring, and to warrantless stop, search, question, seizure and identification requirements.

At the same time, under new sedition laws, the wide freedom of expression enjoyed by Australians will become uncertain and ambiguous, with possible penalties of up to seven years’ imprisonment for unlawful utterances.

Senator Brandis—That’s rubbish, Senator Brown.

Senator BOB BROWN—The Senator George Brandis interjecting here is the very Senator George Brandis who said the sedition laws should be removed from this legislation. He was in the majority of the committee which said, ‘Take them out.’ But, tail between the legs, on behalf of the Prime Minister, he is now interjecting to say that that is rubbish. He is part of that mind-set which says that whatever John Howard says—regardless of whether a Senate committee has found otherwise from listening to the best legal brains in the country—must be better. If Senator Brandis had an idea last week that the sedition laws should be removed, a talk with John Howard has fixed him this week. No longer does he want it, no longer does he demand it. He will now cave in to Mr Howard’s amendments.

Senator Brandis—Madam Acting Deputy President, I rise on a point of order. I have been misrepresented by Senator Brown. Senator Brown has attributed to me a view which I, in the debate earlier in this chamber today, specifically disclaimed.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Senator Brandis, that is not a point of order, as well you know.

Senator BOB BROWN—Thank you, Acting Deputy President, you are quite right—a quivering lower lip was never a point of order. Geoffrey Barker goes on to say the government:

... has not shown persuasively that the new laws are proportionate to the threat, and it has not shown that they will effectively deter or prevent terrorist acts. It has simply assumed these outcomes.

It is also arguable that some of the laws could have the unintended consequence of increasing the threat from terrorism by driving unpopular political expression underground and foreclosing on the possibility of open debate on the issues.

There is something this Prime Minister does not understand—if you repress freedom of speech, if you repress people who are angry into silence and, indeed, if you repress journalists who feel that by debating a matter and writing opinions they may fall foul of the laws, you then get subterranean angry and a reaction which may be much greater than the very thing that you were trying to stop. In the Herald Sun today, Paul Gray had this to say:

At stake here is far more than any MP’s Christmas drinks schedule, although it might not seem so, judging by the present yuletide legislative rush.

The issues involved in the government’s anti-terrorism legislation package go to the heart of Australian public culture.

In a nutshell, they have the potential to change us as a nation.

They have the potential to utterly transform Australia’s long-established manner of handling the issue of free speech.

From being a nation that openly calls a spade a bloody shovel, these laws may make us into a nation afraid to even mention the law’s existence.

What this issue is not about is the moral evil of the Howard Government.

He goes on to say:

What there is strong reason for doubting is the wisdom of the laws.

Further on he says:

The more important tests are whether the news is true and whether its dissemination is in the public interest.
He is talking about the so-called good faith provision. He goes on to say:

A good faith provision in the sedition laws might actually increase the scope of a government of the day to control the media.

These are not idle words or arguments to be dismissed, but they are both as far as the Howard government is concerned.

As Senator Nettle raised in question time today—and she got no reply—the Law Council of Australia wrote to the Prime Minister a month ago putting forward propositions of great and serious concern about the impact of these laws on the fundamental working of our nation and freedoms which have been held dear, important and central to democracy for a century. What did they get? No reply, nothing at all, because this Prime Minister is not able to debate this issue with anybody who knows what it really means to Australia. Sure, he will stand in front of the flag and he will wear wattle on his lapel, but he will sell Australia and Australian freedoms down the gutter if it is going to improve his ability to use fear unnecessarily to gain political advantage. I would predict that the Prime Minister has now crossed into too far territory and he is going to reap the whirlwind. The Law Council of Australia, backed up by every state and territory chapter of law societies and bar councils, said:

Australia’s legal profession is united behind the Law Council of Australia in its opposition to your Government’s proposed anti-terrorism legislation. This bill should not be passed by the Senate. This bill is an affront to the proper working of Australia as a democracy. This bill may well be counterproductive, in fostering anger which leads to outrage rather than doing the reverse. This is a very unwise piece of legislation, and it should be properly and adequately debated in this chamber before all 76 senators are required to vote on it. But what does the Prime Minister do? He says: ‘I won’t answer the Law Council. They can go jump. And I won’t allow this to be debated in the Senate. It can go jump. Why? Because I, as one Australian, know better than the other 20 million.’ When it comes to legislation like this, our Prime Minister thinks he knows better than the legal profession across the nation. What arrogance! What utter gall! What danger from this Prime Minister, who thinks he is Australia. We have a Prime Minister who thinks he is the nation. He will not listen to alternative advice. He is not here to analyse and respond to criticism. John Howard believes he is Australia.

The Greens, along with others, will move major amendments. One test of the Prime Minister’s asseveration that this legislation does not breach international covenants to which this nation is a signatory would be to incorporate those covenants into the legislation, for reference to the courts. So the International Covenant on Civil and Political Rights and the covenants on the rights of children and against torture ought to be incorporated. If the Prime Minister is true, honest and dinkum that this bill does not affront international law then he will have no trouble with incorporation. But, of course, he will oppose such an amendment being brought into the legislation.

The Greens will oppose the sedition section—not seek to amend it—as it is. Yesterday I heard the Prime Minister say, ‘The sedition laws have been there and have not been used in the last 50 years, so I am putting them up in this legislation. People should not worry about it.’ The question many people would immediately ask is, ‘If they are already there in law and have not been used for 50 years, why change them?’ The Prime Minister is again treating Australians as generally not having his mental prowess. The reality is that this Howard executive office which runs Australia wants the sedition clauses updated and the penalties
doubled to suppress free speech in this country—not just free speech which might endanger the country but also free speech which endangers this government.

Senator Brandis—That is a lie.

Senator BOB BROWN—That is very much the case. The senator opposite, who breaches the laws of this place with his interjection, might have sympathy for the Prime Minister on this but I do not.

The Prime Minister is in the business of repressing the right of Australians to express themselves. The fact is that journalists, writers, creators and film-makers, who know a lot more about bringing Australians opinion, feel daunted by this legislation. Time and again, the Senate committee of inquiry, from which the Prime Minister was absent and whose report he has not read, were told that inherent in this is a self-restriction. People will be frightened to speak out in the way they did in the past for fear they will fall foul of this law. Inherent censorship is occurring through the provisions even before they are levied. The Prime Minister knows that, the executive knows that, but we are proceeding tonight to a guillotine by the government members opposite, most of whom have not looked at the intricacies and the impact of this legislation, led here through the nose—

Senator Brandis interjecting—

Senator BOB BROWN—Senator Brandis, who interjects, is an exception this rule. Most of the members opposite will be led across by the nose to vote for this legislation, because the Prime Minister says so and, what he says, they do. Senator Brandis has looked at this legislation. What is extraordinary is that he will cave in to what the Prime Minister wants anyway. He knows, and he will agree to the Prime Minister’s dictate anyway.

Then we have the sunset clause, where part of this legislation—and part only—will be looked at 10 years from now. What an extraordinary vote of no confidence in 10 years of parliament in this great democracy of ours that is by the Prime Minister.

The only other thing that needs to be said before I sit down is that the opposition is going to vote for this legislation. So, when the guillotine falls, the opposition will side with the Howard government on this. What a remarkable event that will be: Her Majesty’s opposition—and that is a term Mr Howard would very much like to hear—falling into line. I find it incredible that the Labor opposition, which has fought so strongly for the rights of average Australians over the last century, is going to fall into line with this Howard executive. It will not be on an amended piece of legislation, because amendments will not occur in this place. The sedition clauses will not be removed. The opposition will vote for it holus-bolus. It will vote for this legislation which has copped a panning by opinion makers right across the spectrum in the press since the government’s own amendments were announced.

The opposition now resides on the cross-benches. The opposition is the Greens, the Democrats and—if its representative gets a say in this now-repressed Senate—the Family First Party. We see this failure of the Labor opposition to stand up to this jackboot legislation from the Howard executive office. It is jackboot legislation because the Prime Minister is using the numbers to prevent it from being discussed, analysed, debated or amended according to some of the finest legal minds in the country. The Prime Minister knows better than all of them. What is more, there is more of this coming. There is not just this legislation with its surgical removal of vital rights of Australians, which, in the next 24 hours, Labor is going to approve. There is more. No sooner will this be through than the next excision will be announced by Mr Howard and/or Mr Ruddock at his service. This is a very dangerous process.
Thank glory we do have a Senate with proportional representation. Thank glory we do have representation here that is not just going to bend at the knees when the moment of the vote comes, at about this time tomorrow. (Time expired)

Senator McGauran (Victoria) (8.09 pm)—I seek leave to incorporate Senator Santoro’s speech on this matter. It has been cleared by the whips.

The Acting Deputy President (Senator Troeth)—Is leave granted to incorporate Senator Santoro’s speech?

Senator Bob Brown—I did say no, but I now say yes. Let me point out the absurdity of the process.

The Acting Deputy President—I think you have given your approval. Leave granted.

Senator Santoro (Queensland) (8.10 pm)—The incorporated speech read as follows—

There is no doubt that Australia today, like every country, faces a heightened risk of terrorism.

That in fact is a point I very deliberately made in my first speech in this chamber, on 4 December 2002.

Terror was a factor then, globally and here at home, and it remains a factor now.

I say ‘remains a factor’ because it is important that we understand what we are dealing with.

The world’s security circumstances have changed forever since 2001 when evil annihilated 3000 lives in New York, in Washington, and in Pennsylvania.

The threat we face is very clearly defined.

In my first speech to the Senate I said this:

The first task of any modern nation is to protect its citizens and, as the tragic events of the past year have shown, we must be more vigilant than ever. When our society is under threat, which it is today, I reluctantly accept that individual rights must receive a lesser priority than the protection of the public ... I want to ensure that this society which I love is protected ...

We must accept there is now a brake on the freedoms that as free citizens and democratic people we all love and enjoy and dearly wish to exercise.

In the context of the responsible legislation we are debating today, it is perfectly clear that there is a potential threat to Australia.

That’s good enough for me, and I am pleased to make the observation in this place today that it is also good enough for the Labor Party.

Labor understands the realities of government and the security and other measures that must sometimes be employed in Australia’s defence.

So many other critics of present policy on security matters apparently either do not or refuse to do so.

Recently <Tuesday 29 Nov 05>, in another context—that of the Work Choices legislation—I voiced some criticism of the National President of the Uniting Church in Australia, the Reverend Dr Dean Drayton.

His representations on that occasion seemed to me to be echoing the Labor line and the union line against modernising Australia’s workplace legislation.

In relation to the bill we are now debating, Dr Drayton has also entered the fray.

On November 1 he wrote to me and to other parliamentarians saying the Uniting Church had noted the increasing weight of legal opinion that these laws violate human rights obligations recognised by Australia, and undermine the law and the constitution.

Dr Drayton was referring to the private opinions of legally qualified people, both of them former chief justices of the High Court.

Frankly, he got it wrong again.

Obviously one would want to take on board very seriously the private opinions of former chief justices.

But the private views of Sir Anthony Mason and Sir Gerard Brennan on the Anti-Terrorism Bill, however well informed, do not constitute formal legal opinion.
This legislation — and the urgent portion of it that we voted on in an earlier sitting — is designed to strengthen the measures that can be taken under the law to protect Australia and Australians. It deals with the fact that pernicious people want to terrorise us and kill us. It’s a simple as that.

The Government wishes to deny these people those opportunities.

The overwhelming majority of Australians would support the Government’s desire and objective in this regard.

It is therefore important — especially I suggest for people like Senator Brown and Senator Nettle, who daily attain a detachment from reality that is truly fantastic in the original sense of that term — to understand that the security agencies operate under the law but independently of Government direction.

Australia is a robust democracy.

If it were not, Senator Brown would be frequently tied to a tree rather than forever being seen hugging them on the superannuated ABC ‘Catalyst Bytes’ clips screened ad nauseam on ABC Asia Pacific Television.

Our democratic heritage is a fundamental freedom for which we must be prepared to fight.

Some of the people who want to destroy democracy and freedom and our way of life may be among us.

That’s not a comfortable thought, but it is a reality.

And it brings me to a central aspect of the bill — changes to anti-sedition laws — that have caused a lot of comment.

Senator Brown — again wearing his ‘no worries’ hat on security issues about which he knows nothing and apparently cares less — says we don’t need them.

But as the Prime Minister said on the ABC ‘Insiders’ programme on Sunday, the sedition laws that are proposed to be introduced are essentially no different from those that have been in existence for years.

They have simply been modernised to take account of today’s technology Action on these lines was recommended by former High Court Chief Justice Sir Harry Gibbs in 1991.

Let me also underline this point: there is no realistic prospect that the new laws will result in newspaper columnists and cartoonists going to jail for sedition.

The Prime Minister made that point very clearly on the Insiders’ programme on Sunday.

The various critics of the sedition provisions should take note — and especially the media collective that gained easy publicity last week by engaging in self-serving public ruminations on the issue.

These laws are designed to protect our democratic society.

They will also protect — and not simply coincidentally — people who have made a career out of jumping at shadows and seeking to profit or empower themselves by imputing the presence of base motives in others.

Neither the current nor proposed sedition offences limit the ability of individuals or the media to comment publicly or even criticise governments or government policies.

We all need to understand very clearly that these days sedition is not some Fenian preaching rebellion in a Dublin park or its Antipodean equivalent.

In the bill before us the proposed replacement offence will continue to make it illegal to urge the use of force or violence where the use of the force or violence would threaten the peace, order and good government of the Commonwealth.

The proposed offence is focused on those who through the Internet or otherwise urge others to do harm to their fellow Australians.

I say again, we must recognise that times have changed and that our security environment has worsened.

In 2001 a total of 3000 people, among them Australians, died in the September 11 attacks on the United States.

Since October 12, 2002, we have lost 94 of our citizens to terrorist murderers overseas.

We cannot assume such depraved people won’t try to commit mass murder here.
We must protect ourselves with all appropriate measures.

There has been a lot of public comment on the bill before us, a great deal of it critical of the proposals within it.

I accept the bona fides of these critics. For example, I closely read and deeply appreciate the joint Queensland Law Society-Bar Association submission to the Senate committee that examined this bill.

I say plainly here today that I do not accept its argument and I don’t think anyone responsible for legislating for the defence of Australia from enemies within could accept it.

We are no longer protected by the tyranny of distance from the global epidemic of terrorism.

This bill prepares us better to win a fight if and when we need to have it.

It recognises the inescapable fact that terror ignores all boundaries: National boundaries; the boundaries those of common decency; and also those applied by the traditional rules of war.

The bill is a sensible protective measure warranted by the circumstances we find ourselves in.

It deserves to be enacted into law and I support its passage.

Senator MURRAY (Western Australia) (8.10 pm)—I seek leave to incorporate my speech on the second reading.

Leave granted.

The speech read as follows—

I always worry when the unholy alliance of governments, the police, the secret service and anti-libertarians opposes the media, academics, the legal profession and liberty lovers. I’ve seen it before. It heralds injustice.

When the Australian Law Council is moved to put out full page advertisements quoting Benjamin Franklin, Winston Churchill and Robert Menzies on the evils of authoritarianism, and includes an open letter to the Prime Minister saying that ‘Australia’s legal profession is united behind the Law Council of Australia in its opposition to your Government’s proposed anti-terrorism legislation’ you know this Anti-Terrorism Bill (No. 2) 2005 is almost certainly a foul and odious law.

The Law Council is not given to hyperbole. In their advertisement they say: ‘The Government is using the threat of terrorism to introduce laws that put our most basic civil liberties under threat. The ramifications have the potential to be as terrifying as terrorism itself.’

That a conservative party should propose such laws is bad enough. That one should do so with liberal in its name is reprehensible.

I’ve lived four decades in countries with laws like these, long years of civil war, state terror, and other terror, yet bills like this do not comfort me. Such laws last long after their need and the stain of such laws corrupts the fabric of society.

Such laws strike fear into my heart. It is a greater fear than my fear of terrorism. It is a fear that Australia’s liberal democratic values are being destroyed because of another fear, and because of the fear of politicians who hold office dearer than liberty.

Like the Law Council, I fear laws that put our most basic civil liberties under threat, the destruction of the country I have come to love for its openness, for its ability to thumb its nose at ostentation, and its willingness to embrace migrants like me and my family with open arms.

The world is a dangerous place and it always has been. You can be in the wrong place at the wrong time and suffer unspeakable consequences because of it, but that is no reason to live with a heightened sense of fear, a loss of basic legal protections, in an atmosphere of suspicion, secrecy and self-censorship.

I am not belittling the trauma of a terrorist attack, nor am I diminishing the serious consequences that attacks overseas have had for many Australians. These random maniacal attacks enrage and appal me. Neither am I saying there should be no additional efforts made to supplement our existing criminal justice capabilities.

What I am saying is that any response from Australian governments must be proportionate to the threat and balanced with our essential liberties.

There are many things wrong with the Anti-Terrorism Bill (No. 2) 2005, and most of these were pointed out by the Senate legislation committee. I am grateful to them for their efforts. If
the bill is not rejected it must be heavily amended.

There are many issues raised by this legislation, not the least if which are the archaic, unnecessary and sinister sedition provisions. However, I am going to focus on just a couple of abhorrent issues.

They are: the listing of terrorist organisations; the dismantling of the common law concept of habeas corpus and the opportunity for torture that this legislation, not explicitly but implicitly, allows.

I had friends in South Africa who experienced house arrest, banning, and detention without trial. I had friends who were beaten, tortured and killed. There was one trade unionist who was under house arrest for nearly three decades.

In South Africa they listed proscribed organisations. Under this legislation the minister can ban an organisation for being a terrorist organisation.

Let me refer you to a South African Act which was in force during the apartheid era—the South African Internal Security Act, 1982. It dealt with measures in Respect of Certain Organisations and Certain Publications. Clause 4 empowered the minister to declare a certain organisation unlawful.

According to that South African Act, the minister needed to be ‘satisfied that any organisation which engages in activities which endanger or are calculated to endanger the security of the State or the maintenance of law and order, or if it promotes communism, …would be declared an unlawful organisation’.

This Anti-Terrorism Bill (No. 2) 2005 states that the type of organisation that can be banned will be any organisation that advocates (directly or indirectly) a terrorist act.

The minister must now be satisfied on reasonable grounds that the organisation is directly or indirectly engaged in, preparing, planning, assisting in or fostering the doing of a terrorist act (whether or not the terrorist act has occurred or will occur).

I don’t know about anyone else, but there are an awful lot of ‘ifs’ and ‘butts’ in that definition. It appears above board, because the minister must be satisfied on reasonable grounds, although reasonable depends on the minister, but what exactly constitutes being ‘indirectly engaged in’ or ‘fostering’ the doing of a terrorist act? Is ‘fostering’ one of those definitions that the government will ‘know it when it sees it’ but can’t properly explain at the moment?

I am unsure and I would suggest that lawyers and judges will be unsure of exactly what these mean and how they can be proven.

But that doesn’t matter, does it, because there is no guarantee under this legislation that a lawyer or a judge will be able to review or amend the list of terrorist organisations compiled by the minister.

That’s how it was in South Africa too.

Once an organisation was on this list in South Africa, there was no chance of independent review of the decision to place the organisation on the list and there was no way to defend the organisation’s right to exist.

The types of organisations which were proscribed were trade unions, anti-apartheid groups and potentially anyone who protested or questioned the forced and criminalised segregation of South African society.

Under the South African legislation there was also the presumption that the consolidated list of banned persons and organisations was correct and it was relied on without question. There was no opportunity for judicial review.

At least under this Australian legislation there is an opportunity to become de-listed but it is up to the minister (whatever that means—how different Mr Ruddock’s and Senator Vanstone’s discretion has been with the Immigration laws). If he or she becomes satisfied that an organisation is not a terrorist organisation for the purposes of the Act, he or she can de-list it.

But everyone knows that, once you are on a list, it will be a long and bureaucratic process, even in a functioning democracy, to get you or your organisation removed from that list.

The Prime Minister keeps telling us this legislation will be administered by reasonable people—like his immigration laws ... You don’t need to use the historical precedents in South Africa, Zimbabwe and the German Reich to justify a fear of
how such laws may be mistakenly or maliciously applied. Look at the precedents in our own country of police corruption, standover tactics, verballing and the like. And even if you are naïve enough to buy the ‘reasonable people’ argument, who can be sure of future administrations?

Alleged terrorists were arrested in Sydney and Melbourne a couple of weeks ago. According to newspaper reports, the men arrested belonged to a banned terrorist organisation. In many of the newspaper reports however, the men were said to belong to an ‘unnamed’ terrorist organisation.

I was curious at the time, and if anyone can enlighten me I’d appreciate it, but how can a person be arrested for belonging to a banned terrorist organisation that doesn’t have a name? How can an organisation be on a list without a name?

It’s very strange.

I realise that these men were arrested under current legislation, rather than these new amendments, but that only makes me more concerned about the application of terror laws in their entirety. More confusion and uncertainty is not what we are looking for, especially when the law impacts so heavily on civil liberties.

There should be a review process by an independent body, external to the executive, to ensure that the listing of organisations by the Attorney-General is subject to review on a regular basis. Any organisation which is the subject of such a listing should be able to make submissions regarding its inclusion on the list of terrorist organisations.

It is not sufficient, as currently set out in the legislation, that only the minister be satisfied, and the Leader of the Opposition informed, when an organisation is being listed as a terrorist organisation. These are politicians with political agendas. The separation of powers needs to be at play here.

Another concern with this legislation is the dismantling of the rule of law in Australia in relation to habeas corpus. Habeas corpus is the call by a judge to a jailer to present a prisoner to the court so it can be publicly shown that the prisoner is alive and well, that the prisoner can provide evidence and rebuttal, that it can be tested whether the prisoner is imprisoned lawfully and whether he or she should be released from custody or remanded further.

With the amendments proposed in this legislation, the use of preventative detention orders and control orders means that a person who is suspected of being involved directly or indirectly with a terrorist act (which has been committed, or more likely is thought to be about to be committed) can be held without charge.

The control orders are issued when a court is satisfied on the balance of probabilities that such an order would ‘substantially assist in preventing a terrorist act’. There does not need to be evidence that the person is planning a terrorist act, or helping someone else to do it—it simply has to be shown that if the person’s liberty is seriously curtailed then this would substantially assist in preventing a terrorist act.

The Prime Minister says that he opposes capital punishment because the courts are fallible. Yes indeed. Do we honestly think there will never be mistaken identity or mistaken evidence with respect to preventative detention or control orders?

A person under a control order has to wear a tracking device; they are restricted in what they can do and where they can go and their telephone conversations are monitored. Their rights of freedom of movement, freedom of association and freedom of speech are virtually destroyed by control orders that can be renewed every 12 months for an indefinite period. Without charge or trial, this is incarceration and the loss of liberty in a prison without bars.

It is the sort of perpetual surveillance George Orwell so chillingly documented in his novel 1984 as the workings of an authoritarian regime, not of a democracy.

Preventative detention smacks of the type of tactics used by the South African government during the apartheid era. House arrest kept people imprisoned in their homes, restricted to one-on-one contacts. Detention without trial took people away from their homes, holding them incommunicado for days and weeks on end, while nasty things were often done to them. These are techniques favoured by every terror regime, from Stalin to Pinochet.
Does Australia really want to be part of such an infamous list, with legislation on its books which mirrors such reviled regimes?

The other odious aspect of the preventative detention measures is the fact that communication with lawyers will be monitored. How can a lawyer present a case for their client, if the client knows that every word is being overheard?

If the defence lawyer does not have access to the full story from their client, because their client is fully aware that all conversations are monitored, there is less hope of an effective defence case being mounted.

That is not justice as we in Australia know it.

Currently the federal legislation allows for 48 hours detention without charge. The federal government was keen to extend that time but because of a recent High Court decision those drafting the legislation realised that it could not.

It would have been hoped that the thought of unfavourable judicial review of the legislation would give the federal government pause, and it did.

I was surprised to learn that preventative detention orders do not allow ASIO or police officers to question the detainee. It simply means a person can be held for 48 hours in prison. So there is no questioning, there is no charging, so what is the point of depriving someone of their liberty?

Unless it is to soften them up.

This type of holding without charge fills me with a grave foreboding.

Again we come back to the idea that Mr Howard keeps reinforcing. We are all decent and reasonable people and nothing terrible will happen if we implement these draconian laws, which are justified because we live in terrorist times. The majority might well be decent and reasonable people but terrible things have been done by other Australians, including those in authority. Just ask the dead, injured and harmed kids that have been in Australian institutions.

Many people would say that if someone is arrested because there is a suspicion that they know something about an upcoming terrorist act, then, to save innocent lives, torture should be used to obtain that information.

I cannot believe that if a person is believed to know something about an upcoming terrorist attack then ASIO or the police will simply let them sit in a cell and not ask them questions. It is more likely they will ask them questions and quite possible some will use duress if they can get away with it. That’s human nature, isn’t it?

There are always those who say that the ends justify the means and it’s okay to use torture to save others. Once you go down that road you are lost. Torture is a matter of great international notoriety because of the Bush Administration’s equivocation.

There is no equivocation in the American Senate. Senator McCain’s amendment in the USA Senate was passed by 90 votes to 9! It read: ‘No individual in the custody or under the physical control of the American Government, regardless of nationality or physical location, shall be subject to cruel, inhuman or degrading treatment or punishment.’

I note the amendments to this legislation outlawing torture. Any idea of torture should be categorically condemned by the federal government and made known to all those officers who are charged with implementing this repugnant legislation.

Will Mr Howard’s ‘reasonable people’ implement this legislation? I would turn his attention to the 1973 study by Haney, Banks and Zimbardo (Study of prisoners and guards in a simulated prison) where they simulated a prison and made some students prisoners and others guards. The results showed that human nature is not always good, and people’s actions can be changed by their circumstances and powers.

There are insufficient safeguards in this legislation to ensure that human nature is guarded against.

USA Senator John McCain—himself tortured in Vietnam—recently wrote an article in Newsweek regarding torture and I quote an extract here:
What I do mourn is what we lose when by official policy or official neglect, we allow, confuse or encourage our soldiers to forget that best sense of ourselves that which is our greatest strength that we are different and better than our enemies, that we fight for an idea that all are created equal and endowed with inalienable rights.

Regrettably I expect this bill will pass into law with few amendments.

My opposition to this bill is well captured by the Menzies quote in the Law Council advertisement: ‘The greatest tragedy that could overcome a country would be for it to fight a successful war in defence of liberty and to lose its own liberty in the process.’

I’ve always loathed McCarthyism, which has its adherents in Australia. There is the silly view expressed that if you oppose laws such as these it is somehow unpatriotic. I quote the words of the famous US broadcaster Ed Murrow when he railed against McCarthyism in the 1950s:

We will not be driven by fear into an age of unreason. If we dig deep into our history and our doctrine and remember that we are not descended from fearful men. Not from men who feared to write, to speak, to associate and to defend causes that were for that moment unpopular.

I fear we may be heading into our own Australian age of unreason, where fear will slowly dismantle much that holds our society apart from and above the terrorists we are fighting. It seems to me terrorists win the war of ideas and values when they force us to impose oppression upon ourselves. That will, for me and others who hold civil liberties close to their hearts, be the terrorists’ victory and our most abject defeat.

**Senator KIRK** (South Australia) (8.10 pm)—I seek leave to incorporate Senator Mark Bishop’s speech.

Leave granted.

**Senator MARK BISHOP** (Western Australia) (8.10 pm)—The incorporated speech read as follows—

This anti terrorism bill, is a bit of a wake up call. It’s a wake up call for both the Government and all Australians.

As Labor speakers have already identified, this bill highlights once again all its security failings of the Government.

This bill is simply another patch in a very incomplete and ineffective security blanket.

But the bill is also a wake up call for the community in general.

It’s perhaps unfortunate that the debate on security has been made a matter of political advantage.

First it’s simply not true. We on this side are every bit as concerned about the threat of terrorism and the need to stamp it out.

Second, politicisation prevents terrorism being treated seriously on its merits.

We’ve made it plain that it’s indeed very serious, and the Government’s not doing nearly enough.

Terrorism is not a confected issue. It’s not a new issue either—it’s long been a feature of political instability in the world.

The flash point for World War I, the worst war in history, was an assassination—an act of terror against the establishment.

Many of us remember Lockerbie.

We can all recall the campaign of terror by the IRA in Northern Ireland and the UK.

The difference now is simply that Australia is a target too.

It’s different also because of the global nature of terrorism and the fervour with which it’s being pursued.

Moreover, there’s a real concern at its insidious nature, not being associated with any state.

At its heart is a religious ambition, though mixed with other motives, all pursued by violent means.

Today I want to address two central themes. First the developing realisation of Australians about terrorism.

Second, the origins of Islamic fundamentalism, the nature of the threat, and what it means for Australian security.

The growth of terrorism in the world, for many Australians is something seen on the television.
November 11 was certainly a shock, but it was quote “over there”, and quote “an American problem”.

Bali though, did make us think.

The personal safety of Australians, especially overseas, became a genuine concern.

I suggest though that we were still in denial that it could happen in Australia.

Then came the bombings in Spain, and more recently in London. It’s from the latter that the need for this legislation is justified.

And judging from the recent role of the British security agencies, there’s some merit in that.

Certainly British security preparedness seems to be light years in front of Australia but in the light of recent bombings needs constant review

Hence and equally, our criticism of the Howard Government failings, particularly in the transport sector.

Finally, three weeks ago, terror cells were found in Sydney and Melbourne.

With them were large quantities of bomb making materials.

Suddenly the scepticism on our vulnerability evaporated — for some at least.

The prima facie evidence seems substantial, leaving little doubt about Australia’s vulnerability.

Consequently there now seems to be a realisation, that whatever the motives of terrorists, something has to be done.

The debate has therefore switched from “why” to “how”.

Hence this bill before us today — which we in large part support.

The reservations expressed publicly on this bill concern perceived threats to some basic principles.

We’ve all been brought up through the generations on a steady diet of democratic principles.

We take them all for granted.

Such is our confidence, we’ve barely ever considered the need for a bill of rights.

The debate on that though has now been rekindled.

Till now, our rights and freedoms have never been challenged.

We take our freedom and the fair operation of government for granted. Embedded in our values are

- The rule of law,
- the principle of habeas corpus
- the presumption of innocence,
- due process,
- and freedom of speech.

The rules of evidence have stood the test of time.

Everyone who watches “The bill” knows there are proper processes for search and arrest, and interrogation.

Importantly, we have a deeply embedded principle of the separation of state and church.

Of all the issues at the centre of this matter, this is it. These are all fundamental values and rights in our society.

That people now believe the Government is putting them at risk in this bill, simply begs the question.

Yes, they are at threat, but not necessarily by government.

It should be remembered that these principles and values have survived much more than this.

They’ve been transplanted from Europe and America, and took root in our colonies.

They’ve survived world wars between nation states, cold wars, the threat of communism, and the great depression.

In fact they are our greatest protection.

All societies with them survive, those without them fail.

In essence they are the very values that terrorists seek to destroy.

Put bluntly, they are elements of democratic, secular government to which they are ideologically opposed.

That’s the nature of this insidious conflict. So there’s a fine balance here.

We must do both — we must preserve what’s dear to us.
But at the same time we must make sure that they
don’t leave us vulnerable.
That’s why we in the Labor Party wants to see
some limits put on this legislation.
We don’t want to be exposed to those who seek to
harm our society. But at the same time we want to
limit any compromise. We want a sunset clause.
Most important, we want to ensure that the exer-
cise of these powers limited to the single purpose
of combating terrorism.
We all know that despite best intentions, power is
often abused.
Our strong commitment to civil liberties means
that evidentiary requirements have to be tough.
Pressure for results in apprehension and prosecu-
tion often leads to cutting corners.
Just ask any criminal lawyer.
We need to make doubly sure that the case for
these extra powers therefore, is genuine.
If there’s single sign that there’s insufficient evi-
dence for a prosecution, great harm will be done.
Mr Acting Deputy President
This brings me to the perpetrators of this terror.
They are invariably described as “Islamic extrem-
ists” or “fundamentalists”.
They’re not ordinary peace loving, law abiding
Muslims living happily in secular, democratic
societies.
Much has been written about them, and the tele-
vision news each night tells us of their pursuit.
We’re told of their evasion., their capture, their
escape, and recently of the death of some.
It might help therefore if I mentioned something
of their historic origins.
First because a terrible mistake is made, if all
Muslims are considered in the same way.
Secondly, because the purity of the terrorists’
Islamic ideal is rooted in history.
It’s also affected by a range of other political mo-
tives which have plagued the Middle East for a
century.
Time doesn’t allow me to trawl through the his-
tory of conflict between Islam and Christianity
during the last millennium.
Nor between Islam and the growth of the secular
state, particularly after WWI.
Nor with the internal tensions within Islam and
the Muslim community created by new learning,
science, and democratic government.
There is much solid writing on these subjects, all
very topical and relevant.
At its heart, the “fundamentalism” of Islam is the
belief that the Islamic world should revert to the
theocracy of Mohammed, as set out in the Koran.
And further, that Islam should be promoted
around the world with missionary zeal.
In this model there’s no place for the apparatus
of the state.
Sharia law should prevail absolutely, under the
control of the caliphate.
As to whether violence is a valid means of
achieving those circumstances seems to be a mat-
ter of interpretation.
The fact that such circumstances did not survive
to modern times, is now history too, but the the-
ology remains.
With respect to violence, it’s been a most active
tool, used both promoting Islam, and opposing it.
The most modern and relevant manifestation
of Islamic fundamentalism has been attributed to the
Muslim Brotherhood.
Without going to its history, or that of Whaddism,
the tension most recently arose with the secular
state in Egypt in the early fifties.
The new nation state, confronted by fundamen-
talism, reacted with force.
Following that conflict, two presidents were as-
sassinated —Presidents Nasser and Sadat.
Key fundamentalist were executed, but one those
jailed was Sayyid Qutb.
To him has been attributed much of the ideologi-
cal momentum which has since inspired a grow-
ing line of fundamentalists.
In don’t want to dwell on Qutb either, but one quote from his written work “signposts” is proba-
bly sufficient:
To quote Qutb: “we must get rid of this... soci-
ety, we must abandon its values and ideology...”.
He saw his task to:
“to establish the reign of God on earth and eliminate the rule of man, to take power out of the hands of those of His worshippers who have usurped it and return it to God alone, to confer authority upon divine law (sharia’at allah) alone and eliminate the laws created by man...”

Take that literally and we should make no mistake of its intention.

We should also heed the advice of Kepel, one of the world’s experts on modern Islam, quote; “[Signposts is the] the culmination of an enormous literary production much of which has nothing to do with Islamic teaching”.

This isn’t a threat of an invading force.

This isn’t a cold war or a hot war.

Nor is it a gang of criminals bent on their own evil intentions. This is essentially anarchy, driven by a religious obsession. In short, the state would be overthrown by religion.

Worse, the means are violence, mayhem, and urban guerrilla warfare.

Qutb is also important because after his execution, his philosophy has been adopted by others. These are said to include Bin Laden, the Al Qaida, and a whole string of other terrorists such as Hambali, the mastermind of Bali.

All would seem to have interests and motives beyond Qutb’s vision, as well broader agendas.

Importantly, they all share the same adherence to violence.

That’s why awareness of these people, their ideology, and their continued activities, are so vital for Australians.

The experience in Egypt remains a reminder of the power of fundamentalism.

The overthrow of the Shah of Iran and takeover by Ayotollah Khomeini is another.

At the same time though it is salutary to recall that there are 14 secular Islamic states. These include Turkey, but also in our region, Indonesia and Malaysia.

The potential impact of fundamentalism is therefore very considerable, and it’s a dynamic we must know and appreciate.

Particularly as Australia exists within a growing Muslim region, and have some of our own home grown fundamentalists.

That’s why our relations with our near neighbours have never been so important.

Mr Acting Deputy President

Some comment should also be made on the persistence of scepticism on security on the part of leading commentators.

This ranges from complete denial, to accusations that the Government’s response is a form of “creeping fascism”.

These reactions are both ill informed and ridiculous.

One spurious comparison for example was that the risk of being killed by a terrorist was far lower than being killed in a car smash.

This trite assertion ignores the issue completely. This is not just about managing comparable risk to life —it’s about protecting our way of life.

Moreover, just as death on the roads and death by illness and disease is preventable, so is death from terrorists.

The public perception that terror is their biggest concern, is real. The evidence is now with us.

If there is political advantage sought, it should be ignored. Mr Acting Deputy President, let me finish where I began.

Putting all the hoopla aside, terrorism is real and it’s here.

As a nation we’ve been free of this threat and have had the luxury of watching from afar.

For the time being at least we need to take the reality check and get serious.

That’s particularly the message for Government whose response at best is selective.

Let me summarise.

We in Australia, have for almost our entire history been free form internal conflict, religious conflict, serious racism, and community violence.

The only major threat as a nation came from Japan in 1942.

All the principles of an open and tolerant democratic society have remained intact.
They remain the best defence we have.
Those who fear their dilution by government would be better advised to protect them from the terrorists.
For the terrorists, the institutions and forms of government are their first target.
That’s what they want to replace, and in defending them they will become stronger.
So will we.
The terrorism we now face is real—it cannot be denied. Those who deny it are deluding themselves.
Worse, they are misleading others in to a false sense of security.
The source of terrorism we face is real and its presence has been effective for over 50 years.
However, we now know that it’s widespread and is in fact present here. We therefore support the bill, and especially the amendment moved.

Senator MASON (Queensland) (8.10 pm)—I listened with interest to Senator Brown’s contribution on the Anti-Terrorism Bill (No. 2) 2005. Senator Brown has framed the debate incorrectly. He seems to believe that this debate is one of absolute and simple dichotomies. He has set the debate like this: this is, in some way, a debate about the civil liberties of individuals versus the national security interests of the state. That is the way the debate has been framed by Senator Brown. It is the individual versus the state. We have a collectivist politician apparently taking the side of the individual. It is interesting that somehow these two interests, of civil liberties and national security, are said to be mutually exclusive, that somehow they are polar opposites and that somehow there is no mixing of the two. That is wrong. It is an incorrect conceptualisation of the debate. No-one actually legislatively or morally sees it that way.

This is not a simple debate of black and white. This is a very complex debate with many shades—a very sophisticated moral palette, one apparently not shared by Senator Brown. The state must justify any incursion on individual liberty. That I accept. But as Lord Donaldson said at the time of the first Gulf War, in the case of R v Secretary of State ex. p. Cheblak:
The maintenance of national security underpins and is the foundation of all our civil liberties.

Until citizens are confident that their safety is relatively secure, other civil liberties are not a foremost priority. The nation must first be made secure for civil liberties. You see, individuals have a very big interest in national security. This is not an issue about the state. Senator Brown makes the mistake of saying that it is the states that are hurt, that somehow when Mr Howard is embarrassed it is a bad thing. The bad thing is when Australian citizens—whether they are in Bali, New York, Madrid or London—get killed or bleed. Executives and governments do not bleed. Australian citizens do.

Senator Brown does not understand. He does not have a sophisticated appreciation. This is not a debate about a simple dichotomy. There is no simple dichotomy between the national security interests of the state on the one hand and the civil liberties of the individual on the other. You can set up a debate like that, Senator Brown, but it does not work. In the Second World War, we took many measures that now, I suspect, seem unfortunate. I accept that. We introduced an ID card and we interned people. I accept that was tough. But it was done in time of war.

Now we are engaged in a war on terror—a long, twilight struggle. And it is a difficult struggle. I do not like it; I wish we did not have to fight it. But, Senator Brown, we do. This debate is not about dichotomies; it is about a pendulum that swings depending upon the interests of the individual, primarily. This idea of somehow setting up the individual on the one hand versus the state on
the other is not only dishonest but also intellectually dishonest.

Senator Bartlett—That’s what you just did yourself.

Senator MASON—Hold on. I accept, Senator Bartlett—I do accept—that legislative overreach can be a problem. I accept that, when legislation is put in place giving the police or ASIO significant powers, those powers should not remain in force forever. I accept that, just as in World War II we gave powers to authorities and then took them away. That is why there will be a review after five years—to check whether or not we in fact still need those powers.

Most importantly, civil liberties advocates fear that the legacy of the current war on terror may be the establishment of a surveillance society. Once the terrorist threat subsides, what remains is powerful legislation which continues to authorise the ubiquitous monitoring of citizens. That is the fear, and it is a fair fear. I understand that. But it is one that will be addressed after a five-year period as a term of review, just as the powers given to ASIO and the Australian Federal Police in 2002 are also subject to review. They must be subject to review—they are extraordinary powers, and I accept that part of Senator Bob Brown’s argument.

What has happened is simple: the nature of policing has changed in the war against terror. In the past—and this is true—the Australian Federal Police took a reactive or strictly law enforcement role and they generally did the job pretty well. But now that is no good. It is no good being reactive after the bombs have gone off and after our citizens bleed. It is too late. What has to happen is that the Australian Federal Police, along with ASIO, have to be given greater intelligence-gathering powers to assure the public and the government that they can do everything to stop the attack occurring at all. It is too late, far too late, when the bombs have gone off and there are people bleeding and dying. It is far too late; the debate is over. I accept that these are extraordinary powers, but we live in extraordinary times. The long, twilight struggle against terrorism will not go away on the simple moral palette painted by Senator Bob Brown before.

Finally, can I just pull up Senator Nettle. I noticed Senator Nettle quoted Sir Winston Churchill at question time and then Sir Robert Menzies, two great liberals, and spoke about the need to protect liberal democracy. We are the custodians of liberal democracy: we invented it. Those that support the individual are sitting over here. The collectivists sit over there. If you, the Australian Greens, had your way, there would not be a liberal democracy, certainly not of the sort that we have here today. We are the ones that invented it and protect it. We understand rather better than the Australian Labor Party—

Senator Marshall—Yes, we’re seeing what your liberal democracy is all about.

Senator MASON—All the Australian Labor Party do, Senator Marshall, is collectivise, whether it is trade unions one day or something else the next. That is the bottom line. We invented it and we protect it.

Senator Nettle—Where are you? You’re not protecting it today.

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order, Senator Nettle!

Senator MASON—I conclude by saying that for parties that believe in collectivism and moral relativism, such as the Australian Greens, to get up and lecture this side of the chamber about civil rights is a disgrace. We will always be the first to defend individual liberty, because we invented it.

Senator FIELDING (Victoria—Leader of the Family First Party) (8.19 pm)—I seek
leave to incorporate my speech; unfortunately, we have run out of time for Family First.

Leave granted.

The speech read as follows—

One of the things that we believe distinguishes Australia from most other countries and makes Australia the best place in the world to live and raise a family is our lifestyle.

Australia is not like other parts of the world.

Yes, it is true that if you live in cities and even many regional centres you do have to lock your doors these days, even when you’re at home.

And even today many people do not feel safe to answer the door at night or go out alone.

Even so, we still like to think that Australia is safer than most places and we want to keep it that way.

The problem is that doing that is a challenge.

Terrorism is not like it used to be.

No longer is terrorism limited to a particular country or region.

Today we confront ideological terror which does not recognise national boundaries or differences between civilians and the military.

Family First understands Australian families want to feel safe and secure.

To do so in these extraordinary times requires extraordinary measures.

As Queensland premier Peter Beattie said:

“These are draconian measures...but when you’re faced with a terrorist threat like this you have to have a response...and you just can’t ignore these international threats.”

Australia is a democracy and one cornerstone of a democracy is balancing the greater good and individual liberty.

We have to strike a balance between doing whatever it takes and the notion that the individual liberty overrules everything.

Enforcement agencies do make mistakes and we do need a system of checks and balances to ensure that innocent people do not suffer.

However, if we are seriously trying to prevent the horrendous crimes we have witnessed in other parts of the world, rather than sitting back and waiting for it to happen, we do have to give our security agencies the powers they need to do the job.

This does involve an invasion of civil liberties which we would not countenance in other times.

But this is the price we have to pay if we are going to take the task of deterrence seriously.

Family First is concerned about the part of the Bill that deals with sedition and I am pleased to read reports that the Government will be amending the laws to specify advocating actual force or violence, and that next year there will be a review of the sedition laws by the Australian Law Reform Commission.

Nevertheless, Family First would prefer that the Government adopted the recommendations of the Senate Legal and Constitutional Legislation Committee to amend Schedule 7 on the sedition laws.

Family First is also worried by the expanded powers to detain people.

I note the comments of former director of the Australian Strategic Policy Institute, Hugh White, who says the powers “... appear to allow the Government to detain people who are not and have never been - so far as anyone knows - involved in terrorist planning or training, on the grounds that police or ASIO believe that they might become terrorists in the future.”

Nevertheless, Family First supports the Government’s view that Australians expect security agencies to have the powers they need to protect us and that this imperative outweighs these concerns.

Consequently, I will be supporting the Bill.

Senator KIRK (South Australia) (8.19 pm)—I seek leave to incorporate Senator Crossin’s speech.

Leave granted.

Senator CROSSIN (Northern Territory) (8.19 pm)—The incorporated speech read as follows—
I rise to speak in both my capacity as Senator for the Northern Territory, but also as Deputy Chair of the Legal and Constitutional Legislation Committee, which investigated the provisions of the Anti-Terrorism Bill.

I wish to draw upon the submissions to the Committee’s enquiries, particularly in relation to Sedition. However, before I do I would like to again thank Owen Walsh and his team for working in such a restricted time frame, and doing such a good job.

Over the last week, we’ve seen an affirmation for how important committees are. We’ve had a majority report handed down by the Senate Employment, Workplace Relations and Education Committee after an investigation into the Commonwealth Radioactive Waste Management Bill 2005 and related amendment, openly criticise the Government’s lack of community consultation, which is a breach of IAEA recommendations.

And we’ve had the Legal and Constitution Legislation Committee which investigate the provisions of the Anti-Terrorism Bill, recommend that sedition laws be scrapped, and that control orders provisions be amended to ensure more checks and balances on these provisions — including a reduction of the sunset clause from 10 years to 5 years.

Committee Enquiries and their reports are an important part of the examination of legislation. They provide an opportunity for us as Senators to receive advice from experts with far greater knowledge than anyone in this chamber, and I would like to thank the Coalition Senators involved in these enquiries for taking note of the submissions presented, and especially for then making recommendations which are unfavourable to the Government, but are recommendations which need to be followed. I hope that Coalition senators continue to make recommendations according to common sense, not Government policy.

The recommendations of the report are common-sense recommendations. In my speech I will walk through the report’s recommendations and reiterate why the Cabinet should pay attention to the report, particularly in regards to Sedition.

The Report deals extensive with Schedule 7 of the legislation which establishes sedition provisions. Submissions and evidence received by the committee were overwhelmingly opposed to the sedition provisions. These submissions came from a wide variety of groups including but not limited to, media organisations, members of the arts and entertainment industry, lawyers, legal academics, judges and general members of the public.

An example of educated legal opinion being given to the committee on this issue can be found in Mr John North, the President of The Law Council of Australia’s comments to the committee in which he said:

“we [the Law Council] think that they will accidentally catch members of the media and... legitimate protestors and even peace activities.”

This is extremely concerning, and I agree with Mr North when he says the:

“moment Australia moves down that path, we really are in trouble”

It is one of the fundamental tenets of democratic nations is the right to free speech. It is critically important that all Australians should be able to speak freely both for and against the policy of Governments. It is simply not acceptable for the Government to create legislation.

Another requirement for the prosperity of any democracy is the freedom of the Press. Mr Jack Herman of the Australian Press Council told the committee during its enquiries that:

“there are sections of the sedition law that are wider than the anti-terrorism bill itself, in as much as they do address supposed offences which are by their nature not urging violence or not by violent means, which would say is what a terrorism bill should be catching”.

He goes on to say:

“we do not think that schedule 7 fits very well into this bill, and can be removed from it without damage to the main aim of the bill”.

I believe that the Sedition provisions in their current capacity, may lead to members of the press being persecuted, despite the intention of the legislation being to prevent or stop terrorist actions. Additionally I am concerned about the potential for this legislation to restrict fair comment, not
only through the press, but also through artistic work and the theatre.

The current wording seems to allow for an organisation promoting peaceful protest against any law of the Commonwealth to be charged with sedition if they were to breach a traffic law or another relatively minor law.

The Arts and Creative Industries of Australia, in their submissions warned that the sedition laws:

“pose a real threat to freedom of expression, including artistic and creative expression, in our democracy and accordingly they should be removed from the proposed Anti-Terrorist Bill in their entirety”

The submission goes on to state, that not only do they pose a real threat, but that there is no reason for the introduction of such legislation. They said;

“sedition laws are not required to tackle terrorism as we already have appropriate laws in place to prohibit racial vilification, terrorist acts, terrorist funding and membership of banned terrorist organisations”

In fact, evidence which was received from some submissions suggested that the sedition provisions were counter-productive, because they may simply drive terrorism underground and fuel terrorism further.

The Gilbert and Tobin Centre of Public Law warned;

“There is a danger that criminalising the general expression of support for terrorism will drive such beliefs underground.”

A keystone of democracy is the ability for all ideas to be debated by the public, and any erroneous or misconceived ideas to be corrected.

This is of particular importance in relation to extremist Islamic terrorist groups, such as Al Qaeda or Jemaah Islamiyah. I want to draw the Senate’s attention to the comments made by the Islamic Council of Victoria, which submitted that such radical, extreme and misguided views should be:

“tackled by positive and proactive measures such as engagement and dialogue... the use of anachronistic sedition offences will only harden the stances of those who already feel alienated and disenfranchised by government policies”

Surely in this great Australian democracy of ours we can absorb unpalatable ideas without prosecuting them.

So from the submissions to the committee we’ve discovered these sedition laws work against principles of freedom of speech, freedom of the press, and may actually be counter-productive in combating terrorism.

The committee recommended – as it should – that the sedition laws be removed. But what was the Attorney General Phillip Ruddock’s response?

The Attorney General has turned his back on his own colleagues by ignoring the recommendations of his report. Mr Ruddock said on Tuesday the 29th of November that “The law, in my view is not flawed” despite an overwhelming amount of submissions to the committee arguing the exact opposite. Mr Ruddock insists that there was room for “nuancing” to protect freedom of speech.

We can see that there is a real difference between what the Attorney General says, and what the Attorney general does. While the Attorney General may suggest to the media that the law isn’t flawed, in the very same speech that he introduced the legislation, he argued that the laws should be reviewed. It’s absurd to ask the Parliament to vote on laws that the Minister has already said need to be changed.

This is typical Philip Ruddock incompetence. The sort of incompetence that gave Australians the developed world’s most dangerously inept immigration department.

Labor is giving those Liberals unhappy with Mr Ruddock’s inept handling of this issue, the chance to do the right thing. They can join with Labor and remove sedition laws from the counter-terror package.

Senator CONROY (Victoria) (8.19 pm)—I rise today to support the bill before the chamber. While Labor has concerns about some elements of the Anti-Terrorism Bill (No. 2) 2005 that I will outline later in my speech, the ALP supports the principle behind this bill and will vote for its passage. The fight against terrorism is the defining security issue of our generation.
Labor governments led this country with honour during World War II, the last time the security of our nation was under threat, and we stand ready to lead Australia with honour in these new times of danger. Kim Beazley has recognised that the protection of Australian citizens from terrorism is the most serious national security concern of this country. Any attempt to downplay the significance of this threat through spurious comparisons of the impact of terrorism with the impact of other public policy problems overlooks a number of important points.

Firstly, the protection of a nation’s citizens from external threat is clearly the most fundamental obligation of any government. Under the Lockean social contract, the preservation of the security and the safety of the citizenry is not only a primary obligation of government; it is also the source of its legitimacy. Under the social contract, citizens notionally agree to forsake certain freedoms in exchange for the government assuring their security and safety on the basis of mutually acceptable moral principles. No government deserves to retain power if it does not make delivering this protection its top priority. No prospective government can ever hope to obtain the trust of the electorate unless it can guarantee the citizenry a basic sense of security.

Secondly, the impact of terrorism reaches far beyond the immediate and devastating effects of the large-scale loss of life. Terrorist acts not only kill and maim those innocent people, family members and friends who happen to be in the wrong place at the wrong time but ultimately affect us all, regardless of our proximity to the attack. Acts of terrorism strike at our most basic assumptions about life and challenge our primary beliefs about the society in which we live. Acts of terror outrage our sense of tolerance, our faith in humanity and, most importantly, our feelings of security.

Again, let me be clear: acts of terrorism affect us all, not just their physical victims. Acts of terrorism are designed to intimidate the general population. They are designed to make people fearful about going about their everyday lives, attending their places of work, frequenting popular holiday venues and travelling on public transport.

I was on a bus in London on the morning of 7 July of this year. I saw the impact of a terrorist attack first-hand. It was not just those whom fate had guided to the wrong train carriage or bus who were impacted by the attacks of that day. Everyone in that city felt the impact of those attacks, through their fear for their loved ones and their fear of further attacks. The rollcall of those on whom the terror attacks of 7 July left an indelible impact truly extends far beyond the list of the dead and injured. For these reasons, the potential impact of terrorism on this country is far greater than the immediate loss of life resulting from an attack, no matter how catastrophic.

Finally, terrorism gains a special significance as an issue facing government today because it is an evil born of man. Wrongs perpetrated by man hold a special moral abhorrence. Ask the average person on the street, ‘What’s the greatest challenge faced by world leaders in the last 100 years?’ and far more would respond, ‘The Second World War’ or ‘The threat of nuclear holocaust’ than would suggest the great influenza pandemics or other natural disasters. Evil committed by man against his fellow man has a special psychic repugnance that demands the full attention of representative government. These are the reasons that the threat of terrorism must be of the highest priority for any government. These are also the reasons government should unashamedly apply the full force of its will in the effort to meet the threat. Moral clarity in this effort is essential.
This is also why some rights that we have previously enjoyed as citizens in this country need to be limited somewhat to meet this extraordinary threat. One of the great distortions during the public debate on how best to combat the threat of terror is this idea that the rights we enjoy today are somehow immutable. This view is flawed. Human rights have never been viewed as being absolute. Only the most ignorant or naïve proponents of human rights law advocate the notion that all rights are absolute. Article 4 of the International Covenant on Civil and Political Rights permits derogations from many of the rights outlined in the covenant, including the right to free speech and the right to freedom from arbitrary detention in times of immediate public danger. Further, it has long been recognised that when two incompatible rights conflict, one must bend to accommodate the other.

For example, those who claim a right to freedom of speech may come into conflict with those who claim a freedom from racial vilification. Where rights come into conflict, value judgments must be made about which rights will prevail. The threat posed by terrorism in Australia creates such a conflict of rights. Freedom of speech and freedom from arbitrary detention are historically important rights in our society. However, today, Australian citizens’ rights to safety and security are under increasing threat from terrorism. In this climate, experts tell us that we can strengthen Australians’ right to security and safety by restricting our rights to freedom of speech and freedom from arbitrary detention somewhat. The risk posed by bombers who have no regard for their own safety and strike without any thought of the potential for state sponsored punishment is a unique threat.

The seriousness of the threat posed by these suicide bombers and the potentially catastrophic damage they could cause demand new methods of policing. This is an important point to make. Former Prime Minister Malcolm Fraser recently stated that this legislation exploited community fear of terrorism for political ends. While John Howard has undoubtedly exploited community concern over terrorism for political ends, I believe that the substance of legislation of this kind is a response to a new threat, not a response to community fear. Let me be clear: the threat of a terrorist attack in this country is real. This is not hyperbole or scaremongering. The events of New York, Madrid, London, Bali and Singapore ought to make it patently clear that no country is immune from the current danger.

As I said earlier, suicide bombers pose a new and unique threat to the security of individual Australians. Terrorism poses a grave threat to the basic right to security of every individual in Australia. That is the context of the current debate. It is not a question of either supporting the bill and sacrificing human rights or opposing the bill and standing up for human rights. Such a proposition is irresponsibly simplistic. There are competing rights at stake here. Supporting this bill may abrogate some rights, but it would also strengthen others. In voting on this bill, a value judgment must be made between three rights protected by the International Covenant on Civil and Political Rights: the right to life, freedom of speech and freedom from arbitrary detention.

Again, I emphasise, this is a choice between rights, not a choice between individual rights and authoritarianism. In Australia, where our constitutional rights are limited, value judgments of this kind fall to be made by parliament. We in the Labor Party understand the seriousness of making these value judgments. If we accept the limitation of the right to freedom from arbitrary detention to better protect the right to security, we may one day have to explain ourselves to some-
one who was wrongfully detained as a result of this decision. If we reject limiting the freedom of speech or freedom from arbitrary detention, we may one day have to justify this decision to the grieving families of a terrorist attack on Australian soil. The impacts of these value judgments are real and we appreciate the responsibility of making them. They are the responsibilities of government.

On balance, and after careful consideration, we in the Labor Party have determined that the sacrifices of rights in this bill are justified by the benefits the bill will have in strengthening the right to security for all Australians. As I mentioned earlier, terrorism is the greatest security challenge for government in our generation. We must meet this challenge with determination and moral clarity. We in the Labor Party are happy to be judged on this value judgment. We do not pretend that it will be universally supported. We accept that some parts of the community will disagree with our position. However, we are also confident that the majority of the Australian population will support a decision to temporarily limit the right to freedom from arbitrary detention in order to better protect the right to security. This is why Labor supports this bill.

This support should not, however, be misconstrued as an endorsement of the way that John Howard has handled the threat of terrorism to this country. The Howard government’s response to terrorism has been heavy on political expediency but light on the rapid introduction of substantive measures to combat the threat. The Howard government has been good at grabbing the headlines on terror but has performed poorly in doing the hard yards to take the kinds of steps necessary to adequately protect Australia from terrorist attack. Given the time, I seek leave to incorporate the rest of my speech.

Leave granted.

The remainder of the speech read as follows—

This bill includes a number of measures that Labor has been calling on the government to implement for quite some time (e.g. the introduction of national model emergency police power to search, seize and detain).

Labor has consistently pointed out that the Howard government’s response to the threat of terrorism has been inadequate in many respects. For example, Labor’s Shadow Minister for Homeland Security, Arch Bevis, has taken the fight up to the government over its failure to implement the recommendations of the Wheeler report including:

• Ensuring the x-ray of all international baggage;
• Upgrading the security of our regional airports; and
• Implementing a host of other practical measures to improve Australian aviation security.

Labor has also taken up the attack on maritime security, exposing:

• The fact that 90% of containers in Australian transit ports are not currently x-rayed;
• The fact that the government is failing to enforce the requirement that all inbound vessels identify their crew and cargo 48 hours before arriving in port; and
• The fact that the government is providing voyage permits for foreign flagged ships of convenience to carry explosives and dangerous substances around the Australian coastline and into our ports.

Compounding this inadequate maritime security effort is the government’s refusal to adopt Labor’s policy to establish a national Coastguard to properly protect our maritime approaches.

For our nations public transport, Labor has advocated the creation of a $30 million funding pool to finance the creation of rapid response police squads, more sniffer dogs, extra surveillance devices and security screens and fences.

Labor’s Shadow Minister for Justice and Customs, Joe Ludwig has also taken up the fight to
the government on its failure to effectively implement the international financial action task-force’s:
• 9 special recommendations on Terrorist Financing; and
• 40 recommendations on money laundering; leaving Australia unprepared to deal with the estimated $2 - $3 billion laundered through the Australian economy by criminals and potentially terrorists on an annual basis.
Finally, the government has failed to adopt Labor’s policy of providing a single co-ordinated response to terrorism through the creation of a Department of Homeland Security.
These policy issues are not easy newspaper headlines. They are instead the kinds of practical and unexciting measures the government should be taking to protect this country from terrorism. They are the kinds of sensible policy measures that a Labor government would take to protect Australians from the threat of terrorism. They are the kind of policy measures that a government interested in combating the threat of terrorism with all the powers available to it would take.
They are also the kinds of measures that would be taken by a government motivated by a substantive desire to combat terrorism rather than win cheap political points.
As Labor is motivated by a genuine desire to combat terrorism rather than by political point scoring, Labor would not engage in the rank politically exploitative way the Howard government has handled this issue.
You would think, that of all issues, on the question of terrorism we could put aside our political differences and work together in good faith.
When the government introduced this legislation John Howard’s first instinct to treat the parliament with contempt, ram the bill through the house of reps on Melbourne Cup Day and conduct a farcical one day Senate inquiry. Labor would not engage in this kind of political game playing over our national security. Because Labor’s sole focus in this debate would be on effectively combating terrorism rather than on political point scoring, Labor would be able to take less popular steps to improve the performance of the legislation.
This would allow a future Labor government to deliver not only tough anti-terror measures, but also strong safeguards to ensure the proper operation of these laws. Safeguards like:
• the introduction of legislation to establish a permanent oversight agency for the operations of the Australian Federal Police;
• increasing the resources of the Inspector General of Intelligence and Security; and
• expanding the role of the Joint Standing Committee on Intelligence Services to include oversight of the AFP’s anti-terrorism activities,
are all sensible measures that a Labor government would introduce to ensure the proper operation of our anti-terror laws.

Problems with the bill
There are also a series of changes that Labor would make to this bill in government. These changes have been well outlined in the recommendations of the Senate report into this bill.
The most prominent of these changes are the removal of Schedule 7 on sedition and the imposition of a five year sunset clause on the legislation as opposed to the current 10 year sunset. Labor does not believe that the impact on the freedom of speech presented by the sedition provisions of this bill are justified by any corresponding strengthening of the right to life and security.
These provisions have been sloppily drafted and are indicative of the rushed job that the government has done on these bills.
However, as has been stated by the Leader of the Opposition, Kim Beazley in the lower house, if
the government refuses to delete these provisions Labor will support the bill all the same.
Instead of opposing the bill and giving the impression that Labor has deep philosophical differences with the government on its contents, Labor will instead support this bill unamended, and commit to amending these provisions in government.

On a less important issue, Labor might have opposed this bill because of the inclusion of these provisions, however, Labor believes that supporting the bill is the most responsible course to take in light of the seriousness of its subject matter.

I commend the bill to the Chamber.

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! It being 8.30 pm, the time for this debate has expired.

Question put:
That this bill be now read a second time.
The Senate divided. [8.34 pm]
(The President—Senator the Hon. Paul Calvert)

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AYES


NOES

* denotes teller

Question agreed to.

Bill read a second time.

EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION AMENDMENT (WELFARE TO WORK AND OTHER MEASURES) BILL 2005

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (WELFARE TO WORK) BILL 2005

Second Reading

Debate resumed from 1 December, on motion by Senator Abetz:

That these bills be now read a second time.

Senator WONG (South Australia) (8.38 pm)—I rise to speak on the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005. I will primarily address this bill; I understand Senator Evans will address the other bill that is before the Senate. I do not want to waste much time by bemoaning yet again the Howard government’s arrant disregard for the Senate and its ramming through of the most drastic changes to welfare, certainly in my lifetime and in the lifetime of many other senators, in such a short time frame. I will have more to say about that tomorrow.
I will start by saying that Labor believes that people who can work should work and that we should care for those who cannot. Everyone benefits when more people can participate in the social and economic mainstream. Work is one of those essential things, like family and friends, that give meaning to our lives. That is why Australia needs real welfare reform. But, contrary to its name, this bill does not move people from welfare to work; it just dumps people from one welfare payment to a lower welfare payment. These laws are the final stage of the Prime Minister’s tired old dreams becoming the new Australian nightmare. These laws allow the creation of a working poor in Australia. They force people to take jobs with low pay, bad conditions and no security. They remove the protection that jobless Australians have had from exploitation. They say: if you are unemployed you can be paid dirt or get nothing at all.

With these laws, the Prime Minister has recast Australia with an American die. With its fixation on ideological obsessions, the Howard government is redrawing Australia in the American social model where violence has replaced justice, where communities have become gangs and where neighbours have become enemies. This is what happens when you tear at the social fabric and when you assign moral failure to the vulnerable. This is what happens when people are forced to fight each other for the basic necessities of life. In America, the social security system offers virtually no financial security for the jobless. The result is an army of working poor that competes in a no-win race to the bottom for low-paid work. In America, the result is that you can be employed and still homeless and you can be employed and unable to feed your family. The result is social instability because people need to eat and people need security, and if they cannot get that from work they will look for other means.

This Howard government does not believe in fairness. We saw that last week when it refused to allow the word ‘fair’ to be amongst the objectives of our new industrial relations system. We see it in this bill where the protections from poverty and exploitation are removed. Australians have always understood that not only do we care about ourselves, not only do we have a belief in ourselves and not only do we have a desire to live in dignity ourselves but we also want the same for each other. We believe in each other’s worth and we believe in our neighbour’s right to live in dignity. But, under the Howard government, the iconic Australian value of fairness will become a historical footnote.

The cold heart of the Howard government’s changes to welfare in this bill is a cut to income support for vulnerable Australians. People who would have been eligible for the parenting payment or the disability support pension will instead be dumped onto the dole, and the dole is simply not adequate to meet the basic needs of either of these groups. This bill will abolish the parenting payment for sole parents with the youngest child aged eight or more and for partnered parents with the youngest child aged six or more. The cut-off age currently is 16. Existing recipients as at 1 July next year will stay on the parenting payment unless their relationship status changes or they leave the pension for 12 weeks or more.

This bill will abolish the disability support pension for people with a partial capacity: those who are assessed as being able to work 15 hours or more—it is currently 30—or who could be expected to be able to work at that level within two years with or without rehabilitation, training or education. Existing recipients as at 11 May 2005—the day after
the budget—remain qualified. Those granted between the day after the budget and 30 June 2006 will be reviewed. We wait to see how quickly that will occur.

The basic cut to the money in people’s pockets contained in this legislation is bad enough—around a $20-per-week cut for single parent families and around a $40-a-week cut for people with a disability—but, from 1 July next year, many people who would have received the disability support pension or the parenting payment single will instead be dumped onto Newstart—what most people call the dole. By 2008-09, according to the government’s own figures, 60,000 people with a disability in this country who would have received the DSP will instead receive the dole, as well as 77,000 single parents who would have received the parenting payment.

Not only does the dole provide less money for these vulnerable Australian families who have many additional expenses associated with their circumstances but it has a lower free area, higher withdrawal rates and harsher tax treatment than both the disability support pension and the single parenting payment. That means that, when these vulnerable Australians are dumped onto the dole, they will get to keep less of every dollar they earn. The National Centre for Social and Economic Modelling undertook modelling research on these changes some months ago. According to their research, which the government has never been able to refute, if a sole parent with one child does the right thing and works 15 hours a week, they will only keep $81 of their earnings while John Howard will claw back the other $114 in tax and loss of social security payments. This will mean that a parent in these circumstances will be $91 a week worse off by moving into work under these changes than if they moved into work under current arrangements.

This extreme government is effectively asking sole parents to work for a return of $3.88 an hour. For their 15 hours work a week, they will only be $58 ahead of someone who is not working, and that is before they pay the costs of work: the travel, the clothing and the care for their children. This absurdity is highlighted for a single parent who receives parenting payment and works part time. Without changing her roster or earnings, she suddenly ends up working for less return just because her youngest child has turned eight, just because she gets dumped onto the dole and has to give more of her earnings back to the government—some eighth birthday present from an extreme government!

The Senate inquiry heard a case study of how these changes would punish people for working more. For example, Sally and Claire are in identical situations: they share a house, both have a seven-year-old daughter, receive parenting payment single and work 15 hours a week in a minimum wage job at the local child-care centre, earning $200 a week in private income, with a total income of $390 per week from their parenting payment and work. In July 2006, Claire picks up additional hours at the child-care centre. As a result of her additional income, her parenting payment single is cancelled. In November, the child-care centre downsizes and her hours are reduced back to 15 hours a week. Under the proposed legislation, from 1 July next year parenting payment will be abolished for new applicants whose children are over eight. As a result, Claire will receive only $322 a week, which is $68 less than Sally. Under this government, two sole parents in identical situations will receive different amounts of financial support to look after identical families. One will receive around 16 per cent less income than before the changes simply because she accepted
additional work which only lasted five months.

For people with a disability, the situation is even worse because the DSP is not taxable but the dole is and because the single rate of Newstart is lower than the rate applied to single sole parents. According to NATSEM, if a person with a disability works 15 hours a week at the minimum wage, they keep only 25c of every dollar they earn, while the Prime Minister’s government take back the other 75c. This will mean that, by moving into work, such a person will be $122 a week worse off under these changes than if they moved into work under current arrangements. The Howard government are effectively asking people with a disability to work for a return of $2.27 an hour and, again, that is before the costs of work are taken into account. The reality is that, under these changes, people could very easily end up having to pay to work.

What greater symbol of incompetence could there be than promising welfare reform but delivering a policy that makes work less financially attractive than welfare? The government have failed to provide a scrap of evidence that dumping people on the dole will help them get a job. There has been no modelling and no relevant international studies—nothing. They just keep repeating themselves, saying: ‘Welfare to work, welfare to work’, as if spellbound in a mantra. They just return to their rain dance and wait for job opportunities to shower down on these people.

Another flashing, fluorescent beacon of the Howard government’s incompetence is their failure to match the hundreds of thousands of jobless Australians with the jobs that exist now in today’s labour market. We wonder how many times we need to be told that Australia faces a skills crisis before this government will act. You do not solve the skills crisis by dumping people on the dole, and you certainly do not solve the skills crisis by making it harder for jobless Australians to train, which is what these changes will do. The pensioner education supplement enabled pensioners, including people with a disability and single parents, to help cover the costs of education so they could get the skills they needed to get a job. But these changes slam that door shut. What if you are dumped onto the dole and you want to study part time? Forget it. If you are a single parent and, say, you want to become a nurse, you either study full time while trying to feed your family on Austudy or you allow the Howard government’s new Australian nightmare to crush your dreams. What good does that do anyone? What good does it do the nation?

Recently, I spoke at the national conference of the National Council of Single Mothers and their Children where I encountered a remarkable mother named Tanya. She is a single mother who has tried desperately to get herself an education so she can better look after her two young children. While she is completing her honours year, she is also tutoring students and marking papers, and she collects plastic bottles to help make ends meet. Tanya later wrote to me with her story. She said: ‘Having sole care of two children with no family, few friends, having to take responsibility for everything from the rubbish to mowing the lawn, managing homework and my own studies, let alone working out how to pay the bills and provide the basic necessities, is physically and emotionally exhausting. I have not so much as been out for a movie or a meal in eight years. And, to be honest, if I did have a few extra dollars a week, I would spend it on a second meat meal for the children’s dinner. There have been many times in the past 18 months when I have not been able to sit down and eat with my children; there simply has not been
enough. I have not slept past 7.30 one single morning or had a day off in eight years.' That is the lot of the single mother who is trying to make a go of it.

In a shocking indictment of Howard government policy, listen to how she now feels after spending years trying to gain financial independence. She wrote: 'I would have been wise to stay in government housing, accept welfare and reject the constant fear, shame and humiliation that haunt me in not knowing if I can pay the rent. Just once it would be nice to let the children buy their lunch at school, take them to the movies occasionally and buy them a brand new pair of shoes. My own radical social experiment failed. My dreams cannot come to fruition under the current circumstances. This can no longer be achieved.' And, of course, these laws will only make the struggle harder for people like Tanya. There is no provision for part-time study and no pensioner education supplement. The Prime Minister is simply saying, 'If you can’t afford education, forget improving your skills.' Never mind the skills crisis, just collect plastic bottles until your back breaks or until you retire!

It is mothers like Tanya who will be the first collateral damage in John Howard’s ideological war. If the job Tanya was offered did not provide pay and conditions that enabled her to support her family, too bad. She would have to take it or lose income support for eight weeks. That is what this government is offering, and this is where these extreme welfare changes collide with the extreme industrial relations changes that were rammed through this Senate last week. This government is removing the protection of the award system from job seekers. They will now have to take a job that only meets the minimum conditions, which, as we all know, are completely inadequate.

The same penalty of eight weeks would apply if Tanya were dismissed from her job. If she were dismissed for misconduct, even if that were unfair or not true, she would face losing eight weeks of income support. As an acknowledgment of their own policy dysfunction, the government have conceded that Centrelink would have to step in and provide emergency relief for these families. That is what Australia’s social security is being reduced to: bureaucrats buying food for children because their parents do not have the money. We wait to see what costs Centrelink will actually cover. Rent? Maybe. Clothing? Possibly. School excursions for the children? Sporting activities? Tutoring? Families like Tanya’s will experience the first collateral damage in John Howard’s ideological war but, unfortunately, they will not be alone for long.

I have confined myself to the larger of the two bills that are before the Senate. As I indicated, the family and community services bill will be dealt with by subsequent Labor speakers. I want to make some brief comments about the short time frame we have had to consider this legislation. On top of the extraordinary events of last week, where we saw 337 amendments to the workplace relations bill provided to the opposition just over half an hour prior to debate commencing, I, the shadow spokesperson on this area, have now been asked to commence a second reading debate having been handed as I walked in the government’s amendments to this bill. One wonders how long the foot soldiers on the other side will willingly trample across the Senate chamber, trample across people’s democratic rights, trample across the processes in this place and trample on the basic idea that the Australian people deserve their representatives properly scrutinising legislation.

Let us be clear about this: these are the most drastic changes this country has seen in
social security in decades. They will make hundreds of thousands of families worse off. All the government can do is continue to chant their mantra of ‘welfare to work, welfare to work’ without providing one scintilla of evidence as to why cutting payments to vulnerable families helps them get work. The fact is that the government have not provided an answer on that, either before the Senate committee or in this chamber, because they cannot. They know it is unjustifiable. We have seen time after time, in question time and in the Senate committee process, opposition and minor party senators asking the government’s representatives to tell us why it is that getting people from welfare to work requires dumping them onto a new Centrelink database—requires dumping them onto the dole, and to tell us why it is that cutting the family budgets of vulnerable Australians will help them to get a job. And not once have the government ever had the courage to stand up and explain why.

Even Senator Abetz today simply tried to brush over it with more rhetoric, accusing those opposite, who care about the position of vulnerable Australians, of not wanting to get people into work and wanting to perpetuate joblessness. That is absolutely untrue. We on this side understand the importance of moving people from welfare to work, but we simply say this: you do not move people from welfare to work by dumping them onto the dole, you do not move people into work by telling vulnerable Australians that they have to take a cut in their income. The fact is that the government cannot justify the core of their policy, because that is the core of the legislation that is before us. They can dress it up all they like, they can reiterate the mantra all they like, but they cannot get away from this: the core of your so-called welfare reform is simply dumping people onto the dole and shifting people from one Centrelink database to another. All that will occur in the process is that people who are already vulnerable and over-represented in the poverty statistics will be increasingly so.

The government will shortly ram this legislation through the parliament. This legislation pushes people who are struggling right over the edge. There is no evidence to justify dumping people onto lower support payments. But evidence appears to mean nothing to this government, which is out of control and intent on lowering the living standards of Australians, starting with the most vulnerable. These laws are un-Australian and they are unacceptable. Australia does need welfare reform, but the last thing Australia needs are these extreme and incompetent changes masquerading as welfare reform. Australia needs real welfare reform that tackles the reason why someone is not working and that delivers practical solutions. Australia needs real welfare reform, but that is not provided by these bills. It is not reform to simply dump vulnerable Australians and their families onto the dole. That is why Labor will oppose the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005. I move:

At the end of the motion, add:

“but the Senate condemns the Government for:
(a) failing to allow the Parliament and the Australian people proper scrutiny of the bill;
(b) ignoring the concerns raised in the Senate’s inquiry into this bill;
(c) after nine long years, failing to implement real welfare reform that tackles the reason someone isn’t working and delivers practical solutions;
(d) simply dumping people from one welfare payment to a lower welfare payment;
(e) making extreme cuts to the household budgets of vulnerable Australian families;
(f) decreasing the rewards from moving from welfare to work, to the extent that people may actually end up poorer from work than they would have been on welfare;

(g) failing to provide any modelling to support their case for putting people on a lower welfare payment to help them gain work;

(h) failing its own test of welfare reform by failing to address the growing number of people on welfare;

(i) failing to provide adequate assistance for people moving from welfare to work, particularly for making insufficient investment in vocational education and training;

(j) failing to guarantee in legislation that welfare recipients can meet their Newstart obligations by improving their job skills through training, and restricting access to the Pensioner Education Supplement;

(k) implementing an unduly punitive compliance system;

(l) failing to provide that parents can legitimately decline a job where the costs of child care would wipe out their income or worse; and

(m) providing insufficient protections for vulnerable Australians in legislation, and relying too much on guidelines”.

Senator MURRAY (Western Australia)
(8.57 pm)—As I am going to be cut off because I am so low on the speakers list, I seek leave to incorporate my speech.

Leave granted.

The speech read as follows—

The Employment and Workplace Relations Amendment (Welfare to Work and Other Measures) Bill 2005 or any other welfare to work measures will not be fully successful unless they are accompanied by taxation measures.

As the Senate has heard me say many times now: the Democrats ‘five pillars’ structural income tax reform plan consists of: raising the tax-free threshold significantly; indexing the rates; broadening the base; reforming the tax-welfare intersects; and only after that is done should the top tax threshold be addressed.

Australia’s income tax-free threshold is $6 000, and is unchanged since 2000. My thesis is you either have a tax free threshold or you do not. If the former it must be at a logical level, $6 000 does not qualify as logical on any policy basis in my view.

The tax free threshold is not indexed and is therefore constantly losing real value. If it had been indexed since 2000 it would now be well over $7 000. Had the 1980 personal threshold of $4 041 kept pace with earnings, it would now be over $14 000.

Working Australians have a much lower tax-free threshold than the three million senior Australians who presently enjoy a tax-free threshold well over $20 000.

People cannot live on $6 000 a year. Australia’s welfare floor is $12 500, calculated as the minimum income required for basic subsistence. There is no justification for income taxing someone earning that amount.

The tax-free threshold is supplemented by a numerous and distorting array of tax exemptions, concessions and deductions, plus a myriad of welfare measures. Raising the tax-free threshold significantly should be accompanied by base broadening measures. The revenue advantages would be matched by a simplification of the Tax Act.

Australian Governments regularly benchmark themselves against the 30 countries of the OECD. Australia’s tax-free threshold compares poorly with the OECD.

With the caveat that it is difficult to readily compare systems, the data indicates that Australia’s current $6 000 tax free threshold is less than half the OECD average of $15 400.

Common to all advanced and aspirant nations is a desire to guarantee a minimum liveable disposable income for the poorest citizen and family. This means any or all of a minimum wage, a minimum set of welfare benefits both in cash and kind, and all low incomes being effectively free of income tax.

Australia delivers that set of minima, but at both the popular and the political levels also emphasises the social and economic contract expressed as the ‘fair-go’.
The ‘fair-go’ requires Governments to pursue policies to raise the living standards of the poorest Australians, and to provide them opportunities to educate and work themselves into a better life. More recently Australian Governments have specifically recognised the need to provide incentives to move from welfare to work.

The income tax-free threshold policy falls squarely into this milieu.

Opponents of a tax-free threshold correctly argue that none of the above low-income assistance measures require a tax-free threshold for their satisfaction. The absence of a tax-free threshold will not affect the direct delivery of welfare benefits or tax credits to achieve a set disposable income or living standard.

The lack of a tax-free threshold does however generally result in greater means-testing and greater welfare transfers.

Supporters of a tax-free threshold (amongst which I number) say there are at least four advantages offered – practical, psychological, immediacy and administrative.

The practical point is that excluding low income earners from the income tax system makes sense for that sector, from a personal equity and efficiency point of view.

For a tax-free threshold to be socially effective it needs to affect a large aggregate, meaning a high tax-free threshold therefore.

The psychology of knowing what proportion of your income is entirely yours to keep has high utility. It is an intrinsic good. For obvious reasons, that utility is not satisfied or is ineffective when a tax-free threshold is too low.

Immediacy has great attractions. Money earned and received within a week or two of work done is better regarded than any time lag in receiving compensating rebates, credits, or welfare adjustments.

Administration has two components – the private and the public. A high percentage of low income earners have poor administrative skills, and the self-assessed income tax return is often a chore that has its own cost in anxiety and lost opportunities, and quite frequently requires the aid of a tax agent.

At the public level is the cost of being part of the tax system, calculated as tax system complexity and compliance costs. Tax rebates and offsets do also complicate the tax system and are administratively costly.

Australia is just one of many countries in the OECD debating how to make their income tax system simpler, fairer, more efficient and more competitive.

There is a need for the Government to respond as soon as possible to the high public interest in structural reform of the income tax system, with a comprehensive white paper covering detailed proposals or alternatives.

While more revenue is needed to fund pressing environment, health, education and other needs, that does not mean that Australia should not also address real problems in its income tax system, even if it has to be at a revenue cost. Plainly, any revenue cost must be affordable and sustainable.

One of the proposals for making an income tax system simpler, fairer, more efficient and more competitive is the flat-tax system. Less than a dozen countries have a flat income tax system, but it is a matter of current international debate.

There are supporters of a flat income tax system in Australia, the same low rate paid on all income, whatever the income level, and without access to tax concessions or allowances.

Where the flat-tax model means just one tax rate it is highly regressive and needs compensating tax credits or welfare for the lower income sector.

The other flat tax model is the two-rate version, with a high tax-free threshold, and then the application of a flat rate on all income above that threshold level.

Australians are used to and support a progressive income tax system with stepped rates, incorporating the notion that those who earn more should pay more. However over the years the rates have flattened markedly, moving down from a highly-stepped 29 tax rates to the present 5.

The working class and the middle class get the rawest income tax deal. Low and lower income Australians struggle with a tax threshold that kicks in at a ridiculously low level of $6,000, and they struggle with the highest effective marginal
People cannot live on $6 000 a year. It makes no sense at all to tax income at that level. Australia’s welfare floor is about $12 500, the minimum income required for basic subsistence. There is no justification for income taxing someone earning that amount.

This view is well expressed in the paper by P Saunders and B Maley: ‘Tax Reform to Make Work Pay’. CIS Perspectives on Tax Reform (3); Policy Monograph 62:

Since the value of the personal tax-free threshold has slipped to less than half what a single unemployed person gets in income support and rent assistance, the government now takes money away from us long before we have secured our own basic subsistence... It makes no sense to tax low income earners into poverty, and then to pull them out of it by giving them welfare benefits and/or tax credits. It makes a lot more sense to allow people to keep more of what they earn so that they are not enmeshed in the welfare transfer system.

Economic and competitive realities almost certainly mean that there will remain substantial numbers of lower paid workers in our economy, but that does not mean low-income Australians do not deserve a fairer go.

From the employer’s perspective, if the disposable income of low-wage earners increases as a result of tax cuts, it could take some of the stress and tension off the demand for higher wages in the low-wage industrial case that is mounted annually.

Tax rates for low income earners cannot be addressed without sympathetic adjustments to welfare rates. If you wanted to get people off welfare and into work you would target and improve the tax and welfare intersects.

From the perspective of a liveable wage, a viable tax-free threshold is $20 000, preferably indexed to retain its real value. The average income tax on all income for someone earning $20 000 a year is presently over $2 000.

There are over two million Australians paid less than $20 000 a year. They could all be taken out of the tax system. Many of these are casual and part-time workers, particularly women, who need not pay income tax at all, which would be great for struggling families and mothers, among others.

Taking millions of Australians out of the income tax system provides some revenue savings opportunities. Tax deductions cannot be claimed if your total income is below the threshold. The latest figures for total tax deductions claimed for taxpayers earning less than $20 000 is over $2.1 billion, of which more than $1.2 billion is in work-related expenses.

A more than $20 000 tax-free threshold already exists for some lucky Australians. From 1 July 2005, senior Australians who are eligible for the senior Australians tax offset will pay no tax on their annual income up to $21 968 for singles and up to $36494 for couples.

The Australian Bureau of Statistics says the number of people aged 65 years and over in Australia has reached just over 2.6 million, and this age group comprises 13 per cent of the total Australian population. The seniors’ tax-free threshold kicks in at a lower age than that.

Nearly three million Australians therefore benefit from the seniors high tax-free threshold. Why not extend the principle? About one-quarter of Australian tax payers earn less than $21 000.

Raising the tax-free threshold to $20 000 flows tax cuts right up through every income level, so all Australians would get a tax cut.

Apparently, it would cost a massive $19 billion a year. It could therefore likely only be funded through a phased introduction, and by broadening the base to get rid of the numerous and distorting array of tax exemptions, concessions and deductions. That in itself is a progressive idea. It would also result in a shrinking of the Tax Act – a highly desirable aim.

Combined with welfare reform the aim should be to lower EMTRs for low and middle income earners. Significant equity and efficiency gains would result in this simplified system, particularly for lower income Australians.

An analysis of current OECD tax data indicates that Australia’s tax-free threshold ranks last in the list of member countries that provide tax free thresholds.
With the caveat that it is difficult to readily compare systems, the data indicates that Australia’s current $6,000 tax free threshold is less than half the OECD average of $15,400. This implies that low income Australian workers are required to begin paying tax on much lower income levels relative to comparable OECD countries.

As low income earners seek to increase their earnings, they face the loss of welfare in preference for greater income which in turn is more progressively taxed. This loss of welfare and gain of taxable income is described by the EMTR. Australia’s EMTRs for low income earners are high relative to the OECD sample, with Australian tax payers potentially exposed to rates as high as 75% relative to the OECD sample average of 36.5%.

This indicates that comparatively, Australian taxpayers, especially low income taxpayers, face far greater challenges in seeking to move from welfare to work. This low tax-free threshold by Western standards is symbolic of the extraordinarily high EMTRs faced by Australian low income earners wanting to elevate themselves out of the welfare trap.

The merit of keeping and/or raising the tax free threshold is at the heart of the current tax reform debate in Australia, yet relatively little has been said about how Australia’s tax-free threshold experience measures up with similar nations around the world.

An examination of taxation structures of various OECD countries indicates that there is a range of taxation policy initiatives at hand to compare and contrast with Australia’s current system.

Only a minority of the 30 OECD countries have designated tax-free thresholds, but most have the equivalent of tax-free thresholds as a result of personal allowances (welfare) and tax credits.

Australia compares poorly with most OECD countries if you do a crude A$ threshold comparison.

International comparisons always require caution. An example is how Australia compares with Sweden. Although Sweden appears to have a relatively high minimum income tax-free threshold it also levies income tax at the local government level and has a large social security levy.

The 6 OECD countries that employ a tax free threshold on a similar basis are Australia, Austria, Germany, Luxembourg, Sweden and Switzerland. With the exception of Australia, all are European, and Germany stands out as a much larger economy relative to the rest of the sample.

The OECD sample, which in summation represents 12% of OECD output, appears to enjoy a substantially better standard of living and level of wealth relative to the broader OECD group as reflected by average Gross Wage Earnings being 21% higher than the OECD average (18% in Net Wage terms).

Similarly, the level of taxation is also substantially higher than the broader OECD average, both in terms of the average taxation rate (total tax) and the level of taxation as a proportion of GDP.

Australia has the highest average Gross Wage Earnings in the OECD, combined with a level of taxation comparable with the broader OECD average on a weighted basis. The tax take as a percentage of GDP however, is substantially lower in Australia relative to the sample and the broader OECD experience.

Considering Australia’s high level of average earnings and tax rate, this result is concerning since it implies that there are greater leakages and levels of inefficiency within the Australian taxation system.

Focusing on the OECD sample, the combination of higher average levels of earnings and higher average levels of taxation implies a greater amount of government income for use on socially important issues including welfare.

A trend evident amongst the OECD sample is a high level of social expenditure, 25.8% of GDP on a weighted basis, relative to 18.1% in the broader OECD membership. It should be noted too that Australia does not follow this trend, with a level of social expenditure substantially lower than its peers and lower indeed than the OECD average.

In the paper quoted earlier by P Saunders and B Maley: ‘Tax Reform to Make Work Pay’, they defend this position in stating: even though less is spent in total on welfare [in Australia relative to the OECD], more money is actually diverted to
those on lower incomes than almost any other OECD nation.

However this argument rests on the principle of stringent means testing for welfare receipts, a method that has created significant distortions in the Australian tax-welfare system and a method that is the chief cause of high EMTRs.

Within the OECD sample, Australia ranks last on a comparative basis in its tax-free threshold level. Austria has the highest level, with a threshold value greater than Australia by a factor in excess of four times, whilst the OECD sample average is more than double the Australian threshold.

Low income Australians not only experience the lowest tax-free threshold of the sample, but they are also exposed to a potential 75.1% EMTR for income earned just beyond the threshold (ignoring the complexity of welfare tapers).

This is clear evidence that the interface between tax free thresholds and effective tax rates faced by low income individuals who seek to elevate their economic status beyond such thresholds is a critical topic for debate in Australia.

Typically referred to as the tax-welfare intersect, the Australian experience indicates that as low income earners exceed the tax free threshold, they face high EMTRs as a result of reduced welfare payments and higher marginal tax rates.

In a document titled ‘Taxing Wages 2002-2003’ by the OECD, the following points are made in Page 29 in relation to the quantum of tax free thresholds:

- the threshold where income tax starts being paid may influence the point at which “poverty traps” may become operative, with reference to effective tax rates that take into account both income tax and the means-testing of tax credits and benefits;
- increasing the threshold is generally costly in terms of revenue forgone; and
- a significant increase in the tax threshold may be used to simplify tax administration by moving a substantial proportion of the population out of the income tax system.

In Australia’s case, the OECD states that Australia is one of only 7 countries where there has been a real reduction in threshold levels between 1985 and 2003. Had the 1980 personal threshold of $4041 kept pace with earnings, it would now be over $14000. Moreover, Australia is the only country where the threshold excluding benefits is higher for families without children (OECD, 2003 pg. 34).

It appears that the combined effect of a tax free threshold below the welfare floor and high EMTRs experienced by low income Australians fails to provide the necessary incentives to move from welfare to work as individuals facing this decision risk losing up to 75c in every $1 earned.

Switzerland combines a tax-free threshold equal to approximately A$13 000 (on a comparative basis) with EMTRs that are below 30% for all family circumstances. This combination offers incentives for individuals to remove themselves from the welfare system, encourages greater national productivity and reduces the administrative burden by removing a greater proportion of low income earners from the tax system.

Senator BARTLETT (Queensland) (8.57 pm)—Mr Acting Deputy President—

Senator McGauran—Mr Acting Deputy President, I rise on a point of order. The normal protocol is one side to the other side and, furthermore, there was an accepted agreement—

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Senator McGauran, normal practice is that the chair follows the speakers list that has been agreed between the whips. That is what I am doing.

Senator BARTLETT—I am glad that somebody has a speakers list, because I have not actually seen one down this end. Nonetheless, the process for many years in this place has been that the minister speaks, then the opposition and then the crossbenchers. I presume that the process of giving a diversity of views the opportunity to be heard will continue, although, given everything else that is happening to curtail freedom of speech and debate in this place, perhaps not.
It is a sick irony that, on the day that a report is released by the Brotherhood of St Laurence highlighting that child poverty levels are dangerously high, the government is guillotining legislation that without question will demonstrably increase the number of children in poverty in Australia.

The fraud that is entailed in this legislation before the Senate today commences with the very title of the legislation. The government has deceptively, with mindless mantra-like continuity, called this a Welfare to Work package. But, as has been pointed out consistently and repeatedly for more than six months since these changes were first announced, the vast majority of people affected by these changes will not move from welfare to a job as a result of these changes but simply from one welfare payment to a lower welfare payment. If the government was honest, it would call this legislation ‘welfare to worse welfare’—if the government was honest.

The Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005—the core bill before us—is not about welfare reform. It is not about helping people get job ready. There is a range of other measures that the government is putting in place to add to the assistance that is provided to people to help them get a job, but the legislation before us is about cutting the incomes of thousands and thousands of Australians. It is about moving people with disabilities and moving sole parents onto a lower welfare payment. It is about cutting the incomes of the most vulnerable and disadvantaged in our community. I repeat the point: any single, individual coalition senator can prevent this outcome by voting for the amendments that have already been circulated, including Democrat amendments, that would prevent this income cut.

As has already been pointed out by Senator Wong, the basic fact that this legislation will mean a cut in income has been continually and repeatedly ignored by any number of government senators—the most flagrant offender being Senator Abetz—who have simply accused anybody that raises it of not wanting to get people off welfare. Any person who points out the simple fact that this legislation will mean a cut in the income of some of the poorest Australians just gets smeared and accused of wanting people to stay on welfare. Welfare to nowhere is apparently our view. If we express concern about poor Australians having their income cut even further, the minister’s response is to smear us by saying, ‘You want people to go nowhere.’

That is the level of so-called debate that we have had from this government. It is no wonder that the government wants to guillotine the legislation in the dead of night and to try to force it through without people knowing what is really going on. This is part of the government’s standard modus operandi: kick people in the guts as part of paying homage to its extreme ideological obsessions while denying that that is what it is doing, try to cover it up with a barrage of propaganda, half-truths and dishonest assertions, perhaps steal some taxpayers’ money along the way to pay for advertising to promote those dishonest assertions and then smear anyone who disagrees with the government—and we have this done under the grotesque gagging and prevention of scrutiny. Senator Wong mentioned that with regard to the farcical Senate committee inquiry process that was prevented from being able to properly scrutinise the legislation and the detail. Now we have the amazing circumstance where we are even being prevented from being able to circulate amendments to the legislation. That is how far this government has sunk.
We now see the government pushing through the most significant changes to welfare since the Social Security Act was introduced back in 1947, taking away income support for so many of the poorest Australians. The measures in this legislation will abolish the pension for sole parents whose youngest child is eight or older and for people with moderately severe disabilities—those assessed as able to work at least 15 hours a week. These groups will instead be forced onto Newstart and the dole and be required to seek jobs of at least 15 hours a week. The Newstart maximum payment for single adults in 2006-07 is $46 a week lower than the disability support pension. So those people placed on Newstart rather than the disability support pension from July next year, as a direct consequence of the individual decision of every single coalition senator, will get at least $46 a week less to live on.

Currently, sole parents receive $244 a week. For their youngest child’s eighth birthday, a sole parent pensioner will have their income support cut by at least $29 per week—and each individual coalition senator jointly and singularly will be personally responsible for that income cut if they do not support the amendments moved in the committee stage of this debate.

The government has argued that people are better off if they have a job in the paid work force and this is the best way to get them out of the poverty trap. No kidding! Never once has any government senator had the basic dignity, let alone the courage, to even deign to try to explain how cutting people’s income helps achieve this goal. From a quick tally I did this afternoon, I found that Senator Abetz has avoided that direct question—put in various ways and once you count supplementary questions—32 times. Thirty-two questions, including supplementary questions, have been put in various ways to Senator Abetz asking how it will help people to get a job if you cut their income. He has avoided answering that question 32 times and has instead smeared the people asking the question.

Nor has he or any other government senator bothered to explain why subjecting all of these people to a harsher income test means that many of them who will only get part-time work will keep less of each dollar that they earn and be on a higher effective tax rate than the wealthiest people in Australia. How this encourages them into the work force has not been explained—indeed, it has not even been acknowledged openly that that is what is going to happen to people.

The government’s own department confirmed at the disgracefully truncated and inadequate Senate legislation committee inquiry that, if the bill is passed unamended, by 2008 an estimated 171,000 people will be on significantly lower payments than they would have been under the current arrangements. So 171,000 Australians and their families will have less money to live on—less money to buy their food, pay their rent, buy their medicines, take their children to the doctor and buy uniforms and school books. And I say that in the context of my opening comments regarding the report that came down today which says that we already have a dangerously high number of Australian children living in poverty.

Some have suggested that all unemployed people should be on the same payment—that moving people with a disability and sole parents onto Newstart is equitable because all unemployed people would then be treated the same. But Newstart was designed for short-term income support for individuals looking for full-time work who did not have significant caring, health or disability issues. It was not designed or intended to meet the needs of people with sole responsibility for looking after children. It was not designed to
meet the income support needs—and, often, the extra costs required—of unemployed people with a disability.

These changes go in exactly the opposite direction to what was proposed in the very mild, reasonable, balanced, far-from-radical McClure report, under which banner the welfare reform mantra has been chanted by this government for many years now. Just using the words ‘welfare reform’ does not make it the same. That is about the only thing that is common to the government’s welfare reform proposals and the principles that were put forward in that report.

The changes in this bill will force people with disabilities and sole parents—groups that are already amongst the poorest and most vulnerable in our community—onto lower welfare payments that do not take into account these additional costs or barriers to employment. Not only do the changes proposed in this bill put in place drops in income support, which will take effect from July next year; they will also put in place changes that will mean, over time, that those differences in income will grow and grow. That might make Treasury bean counters happy—those of them that cannot look beyond the next year’s surplus figures. But for those who actually care about the people in the Australian community and about children—their opportunities and life circumstances—that is an absolute disgrace.

The disability support pension and the parenting payment are indexed to movements in average weekly earnings, while Newstart is indexed to the generally lower consumer price index. This means that, over time, the gap gets bigger and bigger—a problem that was pointed out five or more years ago, when the gap was a lot smaller. Since that time, the government has done nothing except try and force more and more people onto the lower payment. That is its solution to this problem—force more people to get less.

This is a classic example of the stark and ugly difference that has occurred since 1 July—since the government have had control of the Senate by the narrowest of majorities. It is precisely this sort of punitive, draconian, and—frankly—heartless, cruel and unjustifiable measure that the Democrats were able to prevent in previous Senates, when the government would use the banner of welfare reform as a cloak while trying to save themselves money so they could buy off a new round of voters with tax cuts come the next budget.

The Democrats supported a range of welfare changes over the term of the last parliament and the parliament before—constructive, effective welfare changes that assisted people. But we prevented the measures that were simply mechanisms to save the government money and that would have meant more people getting less income. It is pretty simple, really. You can chant your mantra as much as you want and mouth propaganda as much as you want to try and deceive yourself that you are not just taking income away from poor people, but a simple fact remains, however much you want to deceive yourselves about what you are doing. That fact—that Newstart has much more severe income and assets tests and harsher tax treatment than the disability support pension or parenting payments—is an extra reason why these changes are so contemptible and so unacceptable. That fact means the government will start taking back benefits from people with disabilities and sole parents on Newstart much sooner than it currently does when someone starts working. When they start doing what this government says it is all about—start working—this bill will actually enable the government to take more of that money back, more quickly and in larger amounts.
Tax reformers, so-called, on the government side are keen to talk about reducing the top tax rate of 48.5 per cent, including the Medicare levy paid by the high-income earners in order to encourage them. But they seem happy to ignore the far higher marginal tax rates that those on low income face. Apparently, to give wealthy Australians an incentive to work you have got to give them a whopping great tax cut but to give poorer Australians an incentive to work you have got to cut their income.

People with disabilities and sole parents will also lose access to the pensioner concession card and health care card holders may no longer be bulk billed. They will lose their right to low-cost medicines. Depending on the level of income earned, a lower threshold applies at which they lose access to that health care card and the pensioner concession card, with all of the subsequent benefits that go along with those. The pensioner concession card often also provides access to concessional prices for energy, water, public transport, education, car registration, charges such as rates, and a host of other services. So, on top of having their income cut and higher tax rates, they will also be more likely to lose access to all of that concessional assistance.

Moreover—and this is the absolute, utter crowning disgrace that shows what a festering lie is at the heart of the government’s mantra—people with disabilities who wish to try and get into the work force, and who wish to do so by participating in full-time study, will be the most disadvantaged of all. They will have their income cut. They will not even be eligible for the reduced income payment of Newstart, but will be forced onto the even lower Austudy payment. In addition to that, they will not have access to the pensioner education supplement of $31.20 a week, which is available to those on the disability support system. People with disabilities on Austudy will also be forced to forgo any access to the pensioner concession card and the pharmaceutical allowance which would have been available to them on Newstart.

In addition, many people on Austudy do not have access even to rent assistance. NATSEM’s modelling shows that a person with disabilities in full-time study with no private income who is diverted to Austudy rather than being placed on the disability support pension will face a cut in income of at least $80 a week compared to what they would have received under the existing system.

Despite all of the promises contained within the government’s rhetoric of better economic security and more engagement with the mainstream of jobs and community life through paid employment, the reality is that that will not happen for many people. The reality is that they will simply have a dramatic cut in their personal income. And let us not forget the sorts of barriers that are still there for people with disabilities. Most employers will still not employ people with disabilities such as mental health problems, developmental disabilities and back injuries—the sorts of disabilities that, in many cases, make you capable of working at least 15 hours a week but incapable of finding an employer that will employ you, particularly under the government’s new workplace laws which will make it far more likely for people to be unable to find a secure employment position. The government’s own record on the employment of people with a disability is abysmal. The proportion of Australian government employees with a disability has dropped by one-third since this government came to power in 1996 to just 3.8 per cent.

I do not have time to deal with issues like child care in my speech tonight, and my other colleagues who would have had the
opportunity to address these issues will be prevented from raising them because of the guillotine that the government has put in place. Frankly, I find it quite astonishing that any government senator could vote to prevent others here from speaking and then chew up the small amount of available time by speaking themselves. Yet, this is what we face. As we saw with the terror legislation, to bring down a guillotine to give less than an hour for speeches to be made when more than 20 senators indicated a desire to do so and to then have a government senator who voted for that guillotine use up half of the time is simply extraordinary.

It is worth noting the comments of Mr Malcolm Turnbull. In an online opinion article from this April about tax and welfare reform, he made the following comments:

Every aspect of Government policy, be it tax, welfare, corporate regulation, workplace relations should be tested at least by these questions:

- Is this policy making it easier and more attractive for people to go to work?
- Is this policy enabling Australian workers to be more productive?
- Is this policy promoting or assisting the formation of Australian families.

Any policy, any law, which does not receive a YES to all questions should require a very powerful countervailing argument to remain part of our national agenda.

The legislation before us does not receive a yes to any of these questions and, not only has there been no powerful countervailing argument put forward by the government, there has been no alternative argument put forward at all. They have just pretended it is not happening. In fact, the government have been unable to answer the most fundamental of questions: how does cutting the income and entitlements of people eligible for the disability support pension or the sole parent payment help them find work? Any government senator that recognises that it does not can redress that problem by voting for the Democrat amendments come the committee stage. (Time expired)

Senator HUMPHRIES (Australian Capital Territory) (9.18 pm)—I am very happy to speak to the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 and the Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005, although I will only take 10 minutes to do so and will leave time for the likes of Senator Bartlett to speak for longer. In doing so, I note that, under the previous government, there were guillotines applied on no less than 220 occasions over a period of 10 years. Lest anybody listening to this debate think that the idea of guillotining legislation is somehow a highly irregular activity, let me assure them that it does in fact happen regularly under governments of the other persuasion.

You would not think from listening to senators opposite that this legislation underpins one of the largest investments ever made in Australia in moving people into employment. I do not mean investment in terms of numbers of pages of legislation; I mean investment in dollar terms. There is a $3.6 billion package here creating tens of thousands of additional places in employment programs, creating additional places in child care in Australia and creating significant opportunities through remodelling and reshaping work places, for example, to provide access to people with disabilities, all of which is designed to achieve a higher level of participation in the work force than we currently achieve.

It is an attack on the reality that 2.6 million Australians of working age between the ages of 16 and 64 at the present time do not work. In fact, only a small proportion of those people even have a requirement to
work—that is, about 15 per cent of that 2.6 million people. We simply cannot tolerate that level of exclusion of people from work and the consequent social malaise that goes with that. We on this side of the chamber are acting to deal with that problem. For all the rhetoric, accusations or finger-pointing on the side, I have yet to hear a single alternative in this debate or a single explanation of what they would do differently if they were on this side of the chamber.

The fact is that we are making the biggest investment in a generation in new opportunities. In this package, there are 137,000 new places in Job Network programs over four years, 21,000 more places in disability open employment services, 42,000 additional places in vocational rehabilitation, 25,000 places in personal support programs and 6,000 places in community development employment projects et cetera. I do not need to labour that point. I am also delighted that there has been a full response on the government’s part to the issues raised in the majority report of the Senate Community Affairs Legislation Committee. I will come back to that in a moment, but the suggestion, as made by Senator Wong in her motion, that the government has simply ignored the concerns raised in the inquiry is just not true.

I want to respond to a couple of things that Senator Wong said in the course of her remarks. Frankly, I think her comments were predictable but no less unwarranted for the way in which they were delivered. She characterised these changes as about transferring Australian society from one of justice to one of violence. She heralded the rise of American style gangs by virtue of the Welfare to Work changes. I do not think what Senator Wong had to say will read well in the light of posterity. It was hyperbole of the worst sort, or, as Senator Conroy put it earlier this afternoon, ‘hyperbowl’.

This legislation effects a very important and very positive change in the Australian welfare system. Senator Wong said that this legislation shifts people not from welfare to work but from one social payment to a lower social payment. This is typical of what has been taking place in this debate tonight. Every speaker on the other side has characterised this as about taking people from a particular level of income support, such as parenting payment or disability support pension, and transferring them onto Newstart. That is all this legislation is about, as far as those opposite are concerned—that is all it means, all it represents.

They fail utterly to acknowledge that these changes will deliver tens of thousands of people not from one form of welfare to another but from welfare into work—precisely what the legislation is designed to do. We heard evidence in the committee inquiry that that figure would be in the order of 109,000 people. That was the estimate provided to us by the department. Not one senator in the course of the inquiry was able to challenge that figure or say, ‘We don’t believe that’s true, and this is the evidence that suggests that figure is an exaggeration.’ I suspect that the figure is probably an underestimate.

The fact is that the opportunities for employment are very significant in regional and rural Australia at present, despite what many have claimed. The committee heard, for example, that over the last year 210,000 jobs have been advertised in regional Australia for people with low levels of skills, labourers and the like. There were 210,000 jobs advertised, and, a month after these positions were advertised, 48 per cent of them were unfilled. That suggests to me, and I think to anybody who looks fairly at the evidence, that there is a capacity to provide more work in many parts of Australia and that the kind of social transition effected by this legislation does
have the potential to be very successful in providing additional job opportunities.

Members opposite have been insisting, in talking about so-called transfers to lower payments, that there is no evidence or justification from this side of the chamber of the basis for those transfers. Of course, that is not true. During the inquiry the committee heard very clear evidence from documents tabled by DEWR that research in Australia and overseas provides abundant evidence that, if people have non-labour income, the labour supply will fall. I quote from a paper tabled by the department on 23 November:

... income support payments have a suppressing effect on people’s labour supply because income support can help them reach their desired level of income with less work. While returns from work provide a positive incentive to increase work, the effect of income which reduces work effort at the same time can be calculated.

The department then went on to make reference to five separate studies and headline findings which support just that proposition: a study from the United States, a study on unemployment in Denmark, a paper produced at the University of Nottingham in Britain, a paper from the Melbourne Institute of Applied Economic and Social Research at the University of Melbourne and a further study also coming out of Australia. They were five separate studies that demonstrated that principle which according to Senator Wong and Senator Bartlett no-one is prepared to support or justify. The fact is that we are, the evidence is there and nobody has offered any refutation to what is in those papers.

I am happy to support this legislation and I am particularly happy to see that the minister has responded fully to the recommendations made in the committee’s report and has moved to implement all those recommendations. Members heard day after day in the inquiry concerns about the lack of parliamentary scrutiny of the guidelines to be made under the legislation that will deliver the guts of the Welfare to Work changes. That concern was expressed forcefully during the inquiry. The committee recommended that more of the key elements of the package should be made into disallowable instruments, and that is exactly what the government has supported. We have also recommended, and the government has supported it, that there be regular reports to the Senate indicating the statistical effect of these changes in the Australian community. I am particularly delighted that the minister has accepted the recommendation that parents of large families should receive an automatic exemption from the requirement to participate in the work force.

I intend to leave it there to allow others to speak in the debate, but I think that those opposite would be wise to at least acknowledge in this debate tonight that there are many positive elements in this package. Indeed, most of the witnesses before the inquiry made the point that the investment in employment programs, the investment in extra child care and additional money to provide for modification of workplaces will all have a positive effect. To look at the picture without seeing those positive effects is unreasonable and amounts to an attempt to distort. Whether members opposite are attempting to distort, I suppose we will see from the evidence of what this package does when it hits the ground. But I am confident that the 100,000 jobs estimated before the committee to be created by this package—evidence that was not refuted before the committee—is a significant enough benefit to the Australian community to warrant us voting for this legislation tonight.

Senator SIEWERT (Western Australia)

(9.29 pm)—I believe Welfare to Work is a major assault on those on welfare, introducing harsh penalties for those on income sup-
port and cutting support to single parents and people living with disabilities. If this legislation goes through, these people, the most disadvantaged in our society, will have to learn to live on less, and I do not see how the government expects them to do so. In reality, it is the voluntary non-government sector, charities and crisis care, which will have to pick up the pieces. The money has to come from somewhere. By cutting costs in welfare support, the government is cynically shifting its costs across to charities, at a time when we are told the economy is booming. Try being a single parent living on PPS. It is no picnic, and now they are going to have to do it on less. Newstart allowance was designed as short-term income support for individuals without serious family, health or disability issues who were seeking employment. It is not appropriate for single parents or those living with disabilities.

The Australian Greens believe that, for the majority of those on welfare, the best outcome is for them to find meaningful employment. It is the best outcome for their families, their self-esteem and their standard of living, and it is the best outcome for our society and the productivity of our economy. I agree with Senator Humphries that, overwhelmingly, the number of people who presented to the Senate Community Affairs Legislation Committee inquiry into the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 and the Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005 said the same thing. But overwhelmingly they disagreed with other things in the package. There was a convergence of opinion that most of the impacts of this legislation will be negative for those most disadvantaged in our society.

We believe that most people on welfare really do want to find meaningful work but face some major barriers to employment, barriers that are not addressed by this legislation. If the government were sincere in their efforts and offered realistic solutions to help these people find meaningful employment, we would support them. We do not support lowering those people’s incomes and forcing them on to Newstart. Welfare to Work is not about genuinely giving people a hand up into employment, despite the rhetoric. It does not offer them real incentives. It does not encourage them to undertake education and training to address Australia’s skills crisis. There are nowhere near enough training places or employment assistance places to support the wave of people who are being pushed onto Newstart.

We are concerned that the measures contained in the Welfare to Work proposals are unnecessarily harsh, badly targeted and ultimately ineffective. They focus on reducing income support and rely on coercive measures and unduly harsh penalties to force people into the work force, rather than providing incentives and support. There are no carrots, only sticks. The proposals do not address the very real barriers people face in finding employment, including lack of education, skills, experience and confidence. Of those 236,000 new jobs last year, 97.5 per cent went to people with skills and tertiary qualifications, while 60 per cent of single parents and people living with disabilities who are to be moved on to Newstart only have a year 10 education. There are not enough training places being offered to help them, not enough custom employment assistance programs to support them and not enough accessible child-care places available to look after their kids, particularly in rural and regional areas.

If the government were serious about the intention of Welfare to Work, which is to help people find jobs and not to cut costs or scapegoat the disadvantaged, they would
amend the Welfare to Work legislation so that single parents and those on disability support who are able to work would only be expected to go on to an activity agreement if there were an identified place for them in intensive employment assistance or training—agreed to by the person, not at the discretion of the secretary—and travel support to allow them to attend. If the government are serious, they will do that and restore the level of support, as we will put forward in our amendments. Otherwise, we are setting people up to fail. A fundamental concern is that relying on negative incentives that stigmatise individuals risks reinforcing the very real fears and low self-esteem already confronting many of the disadvantaged. We believe that we should empower these people rather than punish them. We believe that effective welfare reform must address the real barriers faced by the disadvantaged and develop programs that address the developing needs of our labour market and the growing shortage in skilled labour.

We believe this legislation has been unduly rushed in an extremely irresponsible manner, especially given its far-reaching implications for the daily lives of hundreds of thousands of Australian families who are already struggling to make ends meet. There has not been enough time for public analysis and scrutiny of this complex legislation. In the time that was available, there was overwhelming concern expressed by all those who work in the area. Indigenous representatives were not involved in the committee hearings. The rushed nature of the consultation, combined with the major stresses on and loss of capacity of Indigenous organisations precluded their meaningful involvement. These measures will have major impacts on Indigenous communities, and I believe it is shameful that they have not been properly consulted and informed.

Just as with the Work Choices legislation, given the number of contradictions, loopholes and unintended consequences that emerged during the committee hearings, the logical conclusion is that the drafting of this legislation has also been rushed through to what I believe is an irresponsible timetable. There was a strong convergence in analysis offered by a range of employment support providers, crisis care services and advocates for the disadvantaged at the committee hearings. They all indicated a genuine desire to help those on welfare find meaningful work and improve their lives. But there was strong consensus that this legislation would not do that, that it would not help and that it would have serious impacts that would further entrench inequality and disadvantage and lead to the creation of an underclass of working poor. They do not buy, and I do not buy, the mantra that a job is a job.

The government talk about setting an example for children who grow up in poverty with parents in the household who do not have a job. But how is it setting a good example when children watch their mum or dad slogging away at one or two jobs, as happens in America, getting nowhere and still being below the poverty line? They would not only miss the contact and support a parent at home could provide but also the resources and standard of living a parent with a decent, meaningful job could provide. That is the worst of both worlds.

During the committee hearings, we heard from a number of crisis care organisations who were extremely concerned about their capacity to cope with the increased demand these changes will cause. Newstart allowance was designed as short-term income support for individuals, without serious family, health or disability issues, who were seeking employment. It does not meet the needs of people with families, with disabilities, who are working part time or who have
an intermittent ability to work. Moving them onto Newstart is not an incentive to find work. It makes their lives harder and takes away their ability to meet their needs—health, travel and child care—and look for work at the same time.

Bringing in much harsher breaching penalties—eight weeks without payment for technical administrative breaches—puts many of these people one slip away from crisis. Remember that these people are new to the stringent activity testing regime and may face other significant barriers such as reduced mobility and limited availability due to child-care commitments. They spend a higher proportion of their income on essential items such as medicine and food for their kids and are likely to have lower reserves and lower capacity to get by on no income for eight weeks.

The surveillance and control measures to be exercised over those who are vulnerable are demeaning and disempowering. Exemptions in the legislation appear to have been arbitrarily decided—and this was brought out in the committee hearings. Some categories are receiving top-ups and some are not. Foster carers have been added in a fix-up sort of way, but the needs of family carers have not been addressed. These carers may be looking after children who have suffered abuse and/or have learning and behavioural difficulties. While the amendments do address the needs of foster carers, they do not address family carers’ needs.

Some exemptions were originally contained in the legislation and others were left to the discretion of the secretary. There is still too much left to the discretion of the secretary, in my mind. Many of the promises made in recent policy announcements for exemptions and protections are not contained in the legislation. A number of claims made in the explanatory memorandum are not contained in the legislation. We believe that all exemptions need to be dealt with by legislative instruments, either in law or in regulations. As far as I can read, in my rushed reading of the amendments, that has been partly addressed, but some decisions are still left to administrative staff in Job Network or Centrelink—decisions that involve interpreting policy on the run or making judgment calls that could see someone breached for eight weeks.

Those on the disability support pension or single parents wishing to study full time to improve their prospects of getting a job must go onto Austudy, which pays significantly less. Despite the fact that the major barrier to employment for this group is an average education level of year 10, if you go onto Austudy you lose access to supplements and concessions, including pensioner education supplement, pensioner concession cards, mobility and pharmaceutical allowance and rent assistance. If you are studying part time, there is no top-up.

Effective measures to help people move from welfare to work should focus on positive engagement and incentives. Penalties should be resorted to only in cases where people have wilfully failed to meet reasonable activity and work requirements and have a clear understanding of the consequences of their failure to do so. Reducing incomes and introducing higher marginal tax rates are not incentives for those wanting to find work. There is no credible evidence, despite a one-page document tabled on the last day of the committee hearings, that reducing incomes will increase workforce participation. The government has not seriously tried to justify this argument. Allowances need to be made for the extra costs incurred by single parents and people living with a disability who are taking up part-time work—including travel, special equipment and child-care costs.
More substantial investment is needed in assistance programs, including follow-up support to help those who find jobs to maintain them. The Senate committee heard clear evidence that the assistance programs are not targeted properly and that there are nowhere near enough places. There are insufficient resources and places to support the large number of additional people required to look for work or undertake training. There are only 136,000 training and support places available, mainly at a low level of support, for the 1.3 million people currently on parenting payments and disability support. That was contained in the St Vincent de Paul submission.

These moves are not family friendly, despite the rhetoric. Exemptions for single parents with large families are not automatic and need to be reapplied for on a regular basis. There is no recognition of the important role played by family carers. Under the bill, parents are to be forced to take on work even though child-care and travel costs, together with income support reductions, may result in a net loss of income. This is despite the exemption promised by the Prime Minister.

Activity test exemptions have to be actively sought by those in crisis, including domestic violence, separation, homelessness, serious family illness and mourning. People in distress are unlikely to be able to proactively deal with managing these administrative requirements. The personal impacts on those breached in these circumstances are profound. The legislation will further disadvantage people who are living in rural, regional and remote communities, as there are fewer job opportunities, less training available and fewer suitable child-care places.

There are contradictions between the incentives offered by Welfare to Work for those wishing to undertake recommended training and other recent Commonwealth programs to expand technical and further education and to search for skilled migrants overseas. No proper provisions are made for review under the legislation, despite the fundamental nature of the changes made to existing social security systems. There is a fundamental contradiction between government incentives to encourage mothers in two-parent families to stay at home for the children on one hand and moves to reduce income support to single mothers and force them into low-paid work on the other—particularly given the fact that single parenting puts a lot more pressure on the parent. The money needed to support families living in poverty has to come from somewhere. In effect, these measures will put more pressure on charities to meet welfare support requirements by providing crisis care.

Let us look at the government record on employment for people with disabilities. Surely, if they expect the business community to employ increasing numbers of people with partial capacity and if they are going to require people living with disabilities to look for work, you would expect them to lead by example. In the Public Service, employment of people with a disability under this government dropped from 5.6 per cent in 1996 to 3.8 per cent in 2004. In Centrelink it dropped from 7.2 per cent in 1998 to 6.2 per cent in 2004; in DEWR it dropped from 5.7 per cent in 1999 to 3.5 per cent in 2004; and in the Department of the Prime Minister and Cabinet it dropped from 4.6 per cent in 1996 to 2.2 per cent in 2004.

The moves to compulsory activities for disability pensioners are not appropriate, and limiting disability assessment to government-allocated doctors threatens continuity of care and undermines the Hippocratic oath. There are no allowances under Welfare to Work for those with intermittent or episodic conditions, including mental illness. There is nothing to encourage them to work when
they are able to and to protect them when they are not.

There is also a great deal of concern around the training requirement for those living with disabilities when they are assessed as maybe being capable of working after undertaking training. But these people will be placed on Newstart while they undertake that training to see if they are able to undertake some work. You only have to be capable of perhaps undertaking training. The assessment does not take into account whether training is available, but you are still put onto Newstart.

The combined impact of these so-called welfare reforms and the Work Choices program is of deep concern. We believe that welfare reform without social justice will lead to heightened social insecurity. Dropping the minimum wage would put downward pressure on Newstart, or the dole, as most people call it, and we will end up in a race to the bottom. As we discussed extensively last week, there is no reference to fair pay in the requirements for the Australian Fair Pay Commission; therefore, workers will potentially be entering jobs on incomes that are significantly lower than the minimum wage. And, as the minimum wage drops, the dole could well drop as well. We had evidence of that during the committee inquiry into Work Choices.

We believe the combination of these two packages, Welfare to Work and Work Choices, will lead to increasing levels of poverty and a working poor. The move to increase levels of casual and part-time work under Work Choices, as seen in WA, means increased uncertainty and vulnerability. The focus on low-skilled, low-paid work will undermine industry investment, on-the-job training and productivity. There will be no incentive for employers to invest in staff training, with such a ‘disposable’ work force. There will be no incentive for young people to invest in further education; in fact, that will be increasingly difficult. The only career path will be to keep changing jobs.

The measures in Welfare to Work will make it harder for single parents and those living with disabilities—as if their lives were not hard enough already. They provide little incentive and support for welfare recipients to get out and look for work or undertake training to improve their job prospects. Instead, they make it more difficult for those on welfare to study, and provide perverse incentives to employment assistance agencies that favour immediate employment in short-term, part-time and dead-end jobs over longer term efforts aimed at finding meaningful work and encouraging lifelong learning. These so-called reforms will hurt the most disadvantaged in our community.

Ultimately, the worst impact will be experienced by a generation of children growing up in poverty and despair, denied working role models and opportunities for their own advancement. We risk the very real prospect of creating an intergenerational cycle of poverty. The impact on people living with disabilities is a huge concern. Rather than seeking to support and empower them to find meaningful work that fits their needs and abilities, these measures will make their lives more difficult and less rewarding and will get in the way of the valuable contribution they could make to our society.

This legislation, I believe, is unacceptable in a just and caring community and should be rejected. If the government are serious about improving the lot of those on welfare and addressing the looming skills shortage facing our job market, they should be looking to use measures based on empowerment rather than compliance. They should be taking a whole-of-government approach that identifies the needs of single parents and
those living with disabilities, analyses the future job market needs of the knowledge economy and puts in place sustainable measures to address these needs.

The way forward is clear. We need to get the process right and ensure genuine consultation and engagement. We need a comprehensive whole-of-government approach and adequate resources allocated up front, and the demands of job seekers should not exceed the support services available. We need a long-term commitment from government to provide genuine, sustainable reform targeted clearly at developing skills and addressing barriers to employment and emerging work force needs.

**Senator CHRIS EVANS** (Western Australia—Leader of the Opposition in the Senate) (9.48 pm)—I rise to join this debate because I think it is a very important debate and I am most concerned that the opportunity for the examination of these issues has been truncated. Most critiques of the welfare changes in the first bill, the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005, have come from those whom the government would dismiss as ‘the usual suspects’, people highlighting the unfair and inequitable outcomes for welfare recipients. The government’s only response to these criticisms has been the repetition of its rhetorical panacea that the best form of welfare is a job.

During the recent Senate committee inquiry into the welfare changes, the responsible government department could not offer any rationale for the key measure in the so-called reform package—namely, the decision to reduce the income of those coming onto welfare. Figures provided by the department also show savings of over $1 billion generated over the next three years by these cuts. The government, however, refuses to publicly admit those savings that come from lowering people’s benefits. Together with $800 million worth of savings from earlier measures not implemented, the claims of $3.6 billion of investment in this program are exposed as being a little inflated at best.

No-one has been able to explain how cutting someone’s benefits will assist them into work, because it will not; it will see them struggling to make ends meet on even less money than they currently receive. A single parent will see their income cut by over $50 a fortnight. A person with a disability faces a cut of $84 per fortnight. The so-called welfare reform package is confused, fails to meet the government’s own objectives, increases disincentives to move from welfare to work, is manifestly unfair and is not reform but, in large part, punishment of those on income support.

In addition to the fundamental unfairness of the proposed legislation, I want to focus tonight on the welfare reform tests that the government set for itself. Specifically, will the changes reduce the number of people already receiving welfare payments; will they provide a greater incentive for those people to move from welfare into work; will they simplify the already complex welfare system? The fact that the government’s proposal fails all three of its own tests, as well as the fairness test, should worry all Australians.
Put in the context of the government’s pre-election profligacy and the growth in non-means-tested welfare, the outcomes are completely perverse. Under the government’s welfare changes, the income support paid to a single mother with two children will be cut by nearly $1,500 a year as a way of somehow encouraging her to seek work and give up the full-time care of her children who are as young as eight years old. At the same time, the non-working partners of millionaires are eligible to receive up to $3,300 in welfare in return for them not seeking work and instead staying at home to care for their children, who may be considerably older.

Under John Howard, if you are the non-working partner of a millionaire you should be supported by taxpayers to stay at home. Talk about passive welfare. If you are a single mother or suffer a disability, passive welfare is destructive and you should be forced to earn any benefits. The hypocrisy is breathtaking. Single parents, of course, have every reason to be confused by the way that the Howard government treats them. In 2004 a single mother of two received two $600 per child family tax benefit supplements, a total of $2,400 in lump sum payments in real money, with no questions asked. There was no mutual obligation, no work test, just a bonus from a government in an election year. But in 2006, the same single mum will have her income slashed by $1,500 per year when her youngest child turns eight. That is over $28 a week less to feed her children, even if she meets the government’s new work search test. Even by doing the right thing she will be $1,500 a year worse off.

It does not stop there. This week we had the Treasurer, Mr Costello, pontificating about taking the family benefits off parents whom the government considers irresponsible. After handing out over $2 billion in no-questions-asked lump sum payments to parents prior to the last election, the Treasurer suddenly wants to intervene and make judgments about who are good and who are bad parents and take money from some of the poorest families in the country.

Under John Howard the welfare system has become filled with perverse incentives, poverty traps, disincentives to work and outright inequities. Many of the changes in the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 and the Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005 make it worse. The Howard government’s economic and policy credentials in the area of welfare are in tatters, replaced by pre-election expediency and special deals for politically troublesome demographics. Will the changes reduce the number of Australians already on welfare? The short answer is no.

The Treasurer has repeatedly attacked Labor for failing to pass the government’s 2002 welfare changes, which sought to introduce a harsh 15-hour work test to qualify for the DSP for both new and existing recipients. Peter Costello insisted that the increase in the number of people on the DSP was the pre-eminent reason why welfare reform must occur. Given those very strong claims, and now its Senate majority, many people fully expected that the government would tackle what it considered to be the problem, the 708,000 Australians who were already on the disability support pension. Instead, the 708,000 people currently on the disability support pension are totally forgotten in the bills currently before the parliament. They have no activity test applied, no change in their benefits and no extra assistance to move off welfare and into work. Those 708,000 Australians have been dumped by the Howard government into the too-hard basket—abandoned because of the government’s fail-
ure of political and policy will. The public rationale for this package has been abandoned as a goal of this government. There is no clearer example of John Howard’s and Peter Costello’s social policy failure than this.

In fact, the government has now admitted that the number of people going onto the disability support pension will continue to grow by 53,000 each year. That is the government’s response to the key challenge it set itself—not my challenge, the government’s challenge—a continuing increase in the number of people on the disability support pension and no new assistance to help them move from welfare to work. The other key target group identified by the government was the 612,000 people, partnered and single, on parenting payment. But guess what? They have also been quarantined—at least for now—from the changes in welfare payments. They will face new activity tests, under a confused morass of complicated rules and procedures, but their benefits remain unchanged.

Two key questions flow from all of this. Firstly, why does the government exclude all of the current 1.3 million recipients of parenting payment and the disability support pension from its new regime? There are 1.3 million people not included in this. Second, if a reduction in benefits is so beneficial to new recipients of welfare payments, why has the government not cut the payments of the 1.3 million people currently receiving parenting payment and the DSP? If it is such a good idea, why haven’t they used it to tackle the problems of those 1.3 million people currently on welfare? Of course we know the answer. Because they do not want any victims till after 1 July 2006. They do not want to have to deal with the hard politics. Those discriminated against after that time will not enjoy the same political or media focus of current recipients. The government probably hopes that their plight will go largely unnoticed. Those who will suffer under this package are only those who have the misfortune to separate from partners or acquire a disability after 1 July 2006. It is typical John Howard: cunning politics but terrible social policy. Like most things the government has done in this area, it is politics over good policy.

It is also worth posing the question about whether anyone seriously believes the existing recipients of parenting payment and the disability support pension will be quarantined forever from payment cuts. If I were a young disabled person in my early twenties, I do not think I would believe the promise that they would not be coming after me next. Clearly the 1.3 million people currently receiving parenting payment and the disability support pension have strong reasons to believe that the government will eventually come after them too.

Will the welfare changes provide greater incentive to move from welfare to work? Again, the short answer is no. The government’s key economic argument in support of its plans is that they will provide greater incentive for people to move from welfare to work. This claim has been comprehensively rejected through economic analysis by the National Centre for Social and Economic Modelling, NATSEM. The NATSEM research shows that the two groups most affected, those on the DSP and single parents on parenting payment, are robbed of incentive to work because of the higher effective marginal tax rates they now confront due to the government’s decision to dump them onto the dole. They are in fact going to have higher effective marginal tax rates than they would under the current system—clearly a disincentive to seek work.

NATSEM found that, as people are pushed from the DSP and parenting payment
onto Newstart, they will not only suffer a direct cut in benefits—$46 a week or $29 a week respectively—they will also be financially penalised for actually getting a job because of the different income testing rules for Newstart compared to the pension. In other words, this package, which is allegedly designed to encourage people to move from welfare to work, will actually put people looking for a job in a worse position. It is a step towards an American style welfare system where people are eligible for much lower benefits and are faced with low net returns from any job they get.

The government have been nothing short of misleading in their attempt to paint over the terrible cracks in their changes. Figures provided by the Minister for Employment and Workplace Relations show comparisons of someone on the disability support pension or parenting payment without work versus someone on Newstart with work. This is clearly comparing apples with oranges, but it has not stopped the Howard government from claiming that it is somehow evidence in support of the changes. It is a direct contrast to the NATSEM analysis, which clearly shows that people affected by the changes, either in work or out of work, will be worse off. That is why Labor will not support these measures.

Will the welfare changes simplify the already complex welfare system? The Howard government’s changes have spectacularly failed this test. Traditionally, Australia’s welfare system has separated pension payments for those on long-term benefits, such as the age pension, from allowance payments for those on benefits for a short time, such as Youth Allowance and Newstart allowance. That longstanding logic has been completely undermined by these changes. The combination of the initial package with all its faults and the succession of backflips by the government in response to concerns has resulted in a bewildering array of new arrangements that will sit on top of all the existing payments.

Depending on when a single mother asked for help and the type of single mother she is, she could be faced with different payments and eligibility for other supports. For instance, a single mother receiving parenting payment single prior to 1 July 2006 will have to look for work when her youngest child turns eight but will keep getting the payment until her youngest child turns 16. If she did not ask for income support until after 1 July 2006, she will be required to look for work from the time her youngest child turns six and will be shifted onto Newstart allowance once her youngest child turns eight. After parents in this situation go onto Newstart, they will retain eligibility for some pensioner specific benefits like the pensioner concession card and telephone allowance but lose others like the pensioner education supplement. If a single parent is a foster parent, has a large family or home-school their children, they can apply for temporary exemptions from the work tests but still cop the lower rate of payment, depending on when they first became a single parent. Some of these parents might then get a ‘special’ supplement.

The expression ‘clear as mud’ was never so apt. The new arrangements are bewildering and defy logic—more rules, more administrative procedures and more hassles for families and individuals who have to deal with Centrelink, the Job Network or other agencies. This is from a government that said it did not want a two-tiered system! It is not a two-tiered system; at last count, it was somewhere between an eight- and 10-tiered system.

We now know the proposal developed and modelled by the Department of Employment and Workplace Relations was junked by the
government less than a week before the budget as a result of what I gather was a fairly tense conversation between Mr Howard and Mr Costello. That is what passes for a policy process under the Howard government—no mention of the social policy ministers in any of that. That the government went ahead and hurriedly launched a major welfare package that impacts on hundreds of thousands of Australians without properly considering the implications is a mark of their arrogance.

Let me be very clear about this: Labor supports welfare reform. We are ready to support reform that encourages and assists people to move off welfare and into work. Welfare reform of that kind is vital for our continued economic and social prosperity. It has long been Labor’s view that the welfare system should be means-tested and targeted to those most in need—a system that recognises that a job is the best outcome for an individual and society and never leaves people financially disadvantaged as a result of finding a job; a system that helps break down barriers to work by providing the skills and training that welfare recipients need to help them get back into the work force. Unfortunately, the Howard government has missed this golden opportunity. The positive aspects of the government’s package are heavily outweighed by the emphasis on punishment and compliance.

At the same time, single parents and people with disabilities are punished by a set of changes that work against the measures that might otherwise provide more assistance to enter the work force. The new system also fails to deliver economically sustainable outcomes. At a time of a skills shortage and strong employment growth, the government had a golden opportunity to assist people to move off welfare and into work for the economic benefit of all Australians. But the government’s preoccupation with demonising those on welfare blinds it to fully seizing those opportunities.

The Howard government’s welfare changes clearly fail all three tests that the government set for itself. The changes fail to reduce the number of people already on welfare; fail to provide greater incentive for these people to move off welfare and into work; and fail to simplify and streamline the social security system. Clearly the Howard government’s welfare changes are also manifestly unfair and grossly inequitable. The government has ducked the hard decisions by abandoning the 708,000 people currently on the disability support pension and throwing them onto the scrap heap. The changes do absolutely nothing to help these people and nor do they do anything to help the 53,000 Australians who will move onto the disability support pension each year from now on.

The Howard government has comprehensively failed to provide a system that encourages those on welfare into work through a proper mix of incentives and participation requirements. Instead of helping people get off welfare, the government has made it even harder for these people, dumping many of them onto the lower rate of the dole or Newstart allowance. By moving people onto Newstart, the government has robbed them of incentives to find work by increasing their already high effective marginal tax rates. It is bad economics. It is counter to the government’s stated aims. The government has failed to answer the key question: why does reducing the amount of money single parents have to support their kids equal welfare reform? How does taking food out of the mouths of children in these families help in any way, shape or form?

Given the Brotherhood of St Laurence’s report today about the number of kids living in poverty, this move can only be seen as
callous and hurtful to many children’s chances in life. It does not make sense, and the government has not even attempted to explain why reducing the benefits in any way assists those families. Sure, provide assistance to move from welfare to work, but can anyone on the government side offer any rationale as to why denying those people the current level of benefits and putting them onto a lower benefit is going to assist them? No-one has offered me any explanation. I cannot understand the logic. I challenge anyone on the government side to make that case.

The government has not, in my view, done enough to address the real barriers to work faced by many Australians on welfare. They are complicated, but things like training, skills and child care can help people make that transition. Labor believes we should be doing all we can to help people make that transition, but the Howard government’s welfare reform plans should be rejected because they fail its own tests and fail the test of fairness. The government should think again and work with the community sector to get the package right so it can take up the opportunity that we now enjoy in the economy to genuinely assist people from welfare to work.

Senator GEORGE CAMPBELL (New South Wales) (10.07 pm)—I seek leave to incorporate a speech on the second reading on behalf of Senator Moore.

Senator Abetz—Have we seen it?

Senator GEORGE CAMPBELL—We have been incorporating speeches all night. You can have it; I have just had it given to me.

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Is leave granted?

Senator Abetz—Not at this stage.

Senator McLucas—Mr Acting Deputy President, I rise on a point of order. Senator Abetz has not been in the chamber and has not realised that we have been accommodating requests from many senators—

The ACTING DEPUTY PRESIDENT—I am sorry, Senator McLucas, that is not a point of order.

Senator McLucas—A bit of clarification, then, perhaps.

The ACTING DEPUTY PRESIDENT—Ministers do rotate in the chamber but I am sure that Senator Abetz will get instructions from the whip or somebody else.

Senator McLucas—I hope so.

Senator Chris Evans—As a former whip, I think we ought to follow the practice of showing the speeches to other sides. It has not happened earlier tonight but it should.

The ACTING DEPUTY PRESIDENT—It should.

Senator Abetz—Having browsed through the three pages, I do not think there is anything too controversial in it. I am happy to have it incorporated.

Leave granted.

Senator MOORE (Queensland) (10.08 pm)—The incorporated speech read as follows—

When the government announced with much fanfare its proposal to overhaul the welfare system by encouraging people with disabilities and sole parents into the workforce, there was some expectation in the community that there would be genuine consultation and a co-operative approach to a program which offered some hope. This has not been the case.

For the Australian community the actions of the government are now clear - forcing through their Welfare to Work package, ignoring and dismissing any concerns about the real costs or impact of the changes and then using the too common approach of attacking the victim and abusing the questioners.
This is significant legislation and the Government has treated the Parliament and the community with disrespect, there has been inadequate consultation and the process has been truncated and token. We had a Senate inquiry into the Welfare to Work package, four days of hearings, which exposed the concerns of the community, the questions about the operations of the proposals and the cries for support and assistance by those in the system. The end result is a government report which supported the package, and a minority opposition and cross-bench report which reflected the same questions that had been asked since the budget.

How does cutting the income of people who are already struggling help them into work? Where are the job opportunities for the people identified by the government in their program? And what are the real details of how this punitive package will work.

The Government has proven that it can make changes as we have seen in media reports about amendments to their package, for example the age of the youngest child determining the change of payment for the sole parent. This changed from 6 to 8, and the promises of exemptions for foster parents and home educators, as well as promises that the Secretarial discretion which permeates this legislation will be used “reasonably” to support genuine cases.

These announcements have been through media commentary, and during the Senate committee process, truncated and cosmetic as it was, it became clear that the real detail of how this program will operate remains in regulations yet to be written or made public. The government’s plea is — ‘trust us, this is going to be good for you’.

Can anyone truly believe that this trust could be justified?

The Government has consistently made the statement that the best form of welfare is a job. While there can be no disagreement that access to work and education must be a real alternative for any member of the Australian community, this simplistic statement of ‘just get a job’ does not earn respect or deserve trust. Indeed this approach reflects the lack of compassion, and genuine understanding which should be the basis of any welfare reform. The real issue here is that the Government knows about the concerns and has decided to act anyway.

Throughout the evidence at the Senate Committee, as well as in communications and meetings with community organisations, people working in support groups and Australians who are currently receiving welfare payments, the messages about what is really needed to support people into work, were clear and consistent.

There is not a need for punishment or threat; there is a need for supported employment services, educated employers, and a real commitment to providing assistance to job seekers. The basis of the reform must be respect for people, rather than labelling and reduction in living income. It doesn’t matter how many times the government has been asked about the fortnightly reduction in payment to people on the new ‘enhanced’ Newstart there has been no response.

We have heard about the whole ‘well-rounded’ package including the welfare payment, the significant investment into support services, and the new taper rates. But when the sums are done, for individual parents and people with disabilities, each fortnight, under the new ‘enhanced’ payment, there is less money in the bank. How does this help someone from welfare to work.

When asked whether the reduction in payment is a budget measure to save money, the Government doesn’t answer. When asked why payments such as the pensioner education supplement are not available under the new ‘enhanced’ Newstart, there is no answer. It seems that the Government is determined to force people into work, any work.

Now this may look good in a graph, it may sound impressive in a media doorstep, but how does it genuinely enhance the lives and the futures of the people for whom Welfare to Work was allegedly designed? And again, the Government knows about these issues, and knows the problems, they have been told, but they just don’t seem to care.

The only response from the Government is the mantra that a job is the best form of welfare. And again, any questions, any concerns are arrogantly dismissed as negative, and the ultimate insult – bleeding heart.
During the 2004 Senate Poverty Inquiry, we received evidence from across the country about the overwhelming struggles of people reliant on welfare who were seeking opportunities for themselves and their families. Their stories provide genuine inspiration for the Government to reform the welfare system. There is an opportunity for a cooperative approach to develop partnerships and hope.

However, this Welfare to Work Bill rejects the knowledge and experience of the community and imposes a philosophical approach which is based on simplistic assessment and harsh judgement. While the Government has been careful not to use pejorative terminologies openly in their promotion of the welfare to work passage, throughout the discussion there is a thinly veiled attack on single parents and people who are not genuinely seeking work in some cases the ‘bad back attack’ has even been part of the hard sell. There is commitment to working together to make greater opportunities for people to change their lives and access education and employment. Why is it necessary to divide the Australian community?

Evidence from ACOSS, Catholic Welfare Australia, St Vincent De Paul, Brotherhood of St Laurence, Uniting Church, all supported a program to encourage people from Welfare to Work. Job agencies and community groups expressed their willingness to be part of training and work matching systems which would provide genuine work opportunities.

This optimism should be the basis of real change, but the legislation before us rejects these commitments and supports a punishment based model which further marginalises those most in need. As I have said, the Government has asked for trust, no the Government has demanded this trust, but the current system has not earned the trust needed to move forward. Consistently we have heard of the lack of sensitivity of the current system, the poor communication within current government agencies, inefficient training and job matching, and a general lack of effective services for people who have been out of the workforce for significant periods of time.

The very organisations so necessary to provide real support in any transition from welfare to work have provided information to the Government, DEWR and Centrelink about failings in the system and suggestions for changes. In particular, the punishment regime of this package, 8 weeks suspension of payment has been raised as a genuine issue and the Government persists with the mantra work, work, work.

The Senate Minority Report highlights real cases where the proposed Welfare to Work package will damage individuals financially and make it harder to seek work and to gain confidence through accessing education, or in having some success in making a difference in their lives. Surely the intent of legislation titled Welfare to Work should be real change rather than desperation to meet the requirements of a work test.

The philosophy of this package relies on threat, and provides no encouragement for people who have experienced family breakdown, or illness or change of circumstances. While there is no argument about the value of an effective employment strategy, there is real argument about the methodology in this package before us. I think my greatest frustration is the lost opportunity and the damage that the forceful implementation of this package will do to the people who are caught up in the system, and the people who are required to implement this system.

This Welfare to Work package will force people to seek work, or lose all payment. So there will be more job seekers who have daily need of childcare support, and more job seekers who will have significant need for sensitive, safe, educated workplaces. So far the detail of the child-care places, the work places and the training has not been provided. The responsibility is with the potential worker, we await the detail of the promised support. The Government will get the Welfare to Work package through the parliament, the real test will be the impact on people and their long term futures.

Senator ADAMS (Western Australia) (10.08 pm)—The measures in the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005, along with other measures in the package, form a significant step forward for Australia in building a modern, progressive and responsive social wage sys-
tem for this nation. This bill aims at encouraging all Australians of working age to participate in the work force if they are able to do so.

Three fundamental principles underline the welfare to work measures. These are principles fundamental to the fair-go society that Australians value and that is why we as a government are putting them forward. The principles are: that people who have the capacity and are available to work should do so; that the best form of family income comes from a job, not from a welfare payment; and that services provided to people who have an obligation to seek work should focus on getting them into work as soon as possible.

Australia’s current unemployment rate is at a 30-year low of 5.1 per cent. We now face a shortage of workers, not a shortage of jobs. Nowhere is this more keenly felt than in my home state of Western Australia, and particularly in the mining and agricultural industries. Labour shortages are holding up the development of a significant number of resource projects. The impact of this labour shortage on the West Australian economy is immense. This situation will only get worse with the ageing of Australia’s population. The potential shortfall of Australian workers over the next five years could be as many of 195,000, according to the 2005 Workforce tomorrow study carried out by the Centre of Policy Studies at Monash University.

Australia’s work force participation rate for working age people is around 74 per cent, a historic high according to the OECD’s 2005 Employment outlook. But by this measure we still lag well behind other OECD countries such as Canada, Switzerland, the United Kingdom, the United States and Denmark. In order to meet the skill and labour shortages that the Australian economy will experience, we must ensure that as many Australians of working age as possible are able to participate in the work force, and to their highest level of capacity and availability. We also face an ageing of our population, which will result in fewer new entrants into the labour force. If we do not act to slow this decline then we will see a substantial reduction in the growth of the labour force over the next 10 to 15 years. This will never be an acceptable situation for the Howard government.

This government has no interest in forcing people who cannot work because of their disability to look for work. If the nature of a person’s disability is such that they cannot support themselves through work then the disability support pension will be there. However, the disability support pension should be there for those in our society who need it the most. The government’s capacity to help those in genuine need is significantly diminished when limited resources are stretched to cover those not in genuine need. In short, the Australian community feels it is a fair principle that people are asked to work where they have the ability and capacity to work. So the government will be asking people who can work part time to work part time. This very simple sentiment — asking people to work in keeping with their capacity — is the basis of the changes in the government’s Welfare to Work package.

Over the next four years, the government will be spending an extra $555 million to help people with disabilities get back into the work force. From 1 July 2006, people with disabilities who can work 15 to 29 hours per week will be asked to actively look for work and meet mutual obligation activities, such as the highly successful Work for the Dole program. So the government is asking people with disabilities to participate more actively, and the government has recognised the need to support people in practical ways through this process. Having a job creates the oppor-
tunity to get ahead financially, to make friends through work and to contribute to the community. These are things that make people feel better about themselves and to feel more connected with others in their community.

This extra injection of funds includes $173.6 million more over four years for disability open employment services. This will fund an estimated 21,000 new places nationally for disability open employment services, commonly known as DOES. The new DOES places are for job seekers with a disability who: have a partial and assessed work capacity of 15 to 29 hours a week; will be on Newstart allowance, Youth Allowance or parenting payment; will be required to look for work as part of their mutual obligation; can work independently at award wages in the open labour market with up to two years of employment assistance; and will require more than six months of support after placement in employment.

Job seekers who meet these eligibility requirements and are referred to the DOES uncapped stream following a comprehensive work capacity assessment will be guaranteed a place in the stream. The work capacity assessment provider will assist the job seeker in determining the most appropriate DOES provider for their specific needs, taking into account the availability of specialist providers—those who assist job seekers with a specific disability—and general DOES providers who can serve all eligible job seekers in the area.

The current assessment processes mean that many people are not being connected with available employment and vocational assistance early enough. This means that people may not be provided with the right assistance to help them when they need it. New assessment arrangements will streamline and consolidate existing assessment processes and quickly connect people with the assistance they need. This will mean fewer assessments for many people and access to the right help earlier. It also includes $186 million more over four years for vocational rehabilitation services. In addition, the mobility allowance will also be increased from $69.70 to $100 per fortnight for people with work capacity of less than 30 hours a week who are working 15 hours or more a week in the open labour market or who are looking for such work with assistance from an employment services provider. Disability services pension recipients who leave payments to take up work will be able to return to payment without reclaiming, at any time within two years, if they are unable to maintain their employment. People who increase their hours enough to go off income support can retain their mobility allowance.

The comprehensive work capacity assessment process builds upon the core elements of the existing better assessment and early intervention measure introduced in 2002 for the assessment of people with disabilities, illness and injury. The Australian government now has nearly three years experience in the conduct of work capacity assessments by contracted assessment providers. The new arrangements will be a refinement and an improvement of existing arrangements.

New arrangements for determining the work capacity of job seekers with special needs will provide a holistic, comprehensive assessment and identification of the barriers the person faces in finding and maintaining employment. This may relate to the impact of a person’s disability, medical condition and/or other disadvantage that they may have. It will include current work capacity in hour bandwidth and future work capacity with appropriate interventions, the interventions or assistance a person needs to improve and maximise their current work capacity.
and the most appropriate assistance to meet their needs. As part of the assessment process, assessors will have access to any relevant information about the job seeker, including current and past medical and disability status and prior participation and employment history. Assessors will also liaise with treating doctors and relevant health professionals as required.

For those people who might need a bit of assistance before they can participate in job seeking, a new prevocational account will be available to purchase short-term interventions such as counselling or pain management to help them. This account will operate in a similar way to the job seeker account used by Job Network. Using the account, the CWCA providers will be able to purchase appropriate short-term interventions that will increase an individual’s readiness to commence with Job Network.

In addition to enabling referral to appropriate assistance services, information from the assessment will also be provided to Centrelink to inform the determination of a job seeker’s income support eligibility and appropriate payment type. It is anticipated that CWCA providers will be drawn from a range of allied health professionals. All CWCA providers will have experience in assessing the impact of medical conditions on a person’s capacity to work; determining appropriate forms of assistance to move people into employment; facilitating work force attachment for people with disabilities, injury or illnesses; and facilitating the attachment of unemployed job seekers to appropriate programs to enable them to move into or back to employment.

In addition to their qualifications and experience, training will be provided to CWCA providers on processes, guidelines and expectations prior to the commencement of service delivery. Providers will be required to have ongoing training and/or professional development arrangements and recruitment strategies in place to ensure the provision and maintenance of appropriately qualified and experienced staff.

The Howard government has also undertaken to increase funding to the Workplace Modifications Scheme. This scheme reimburses employers for the costs involved in modifying the workplace or purchasing special or adaptive equipment for new workers with a disability. In 2003-04, $700,000 was spent on the scheme. The government’s 2005-06 budget has identified an additional $25 million over four years to boost this program. This will be a 10-fold increase by 2006-07 and will provide further growth beyond. While eligibility requirements are being reviewed with an intent to broaden them, currently to qualify for assistance, companies must employ a person for at least eight hours a week in a job that is expected to last for at least three months. A cap of $5,000 normally applies for each new worker, although flexibility exists to increase the amount. The types of workplace modifications currently paid for include disability specific IT software; toilet, bathroom or door modifications for wheelchair access; and specialised vision equipment and adapting equipment for people with a disability. These are practical solutions to everyday problems confronting people with disabilities. They also go a long way to help potential employers by easing the financial cost of equipment modifications, which can be very expensive.

On this side of the chamber, it is not all about ideology, as some senators opposite have noisily asserted recently. This government recognises that sometimes in the employment market a helping hand is required to facilitate the introduction of employer to employee, and that is why these funding announcements have been so well received. Work will also be undertaken to improve the
administration of the scheme to speed up approval processes. This may include linkages to the proposed information and resource centre for employers seeking to employ people with a disability. We are always looking for ways to improve. Administration can always be improved and sped up for those most in need in our society.

To close, I would like to borrow a phrase often used by my esteemed colleague the Hon. Eric Abetz. Senator Abetz often says that the coalition government wants to see people move from welfare to work and not welfare to nowhere. That last statement condenses a thousand words and speaks volumes. I commend this bill to the Senate.

Senator McLUCAS (Queensland) (10.22 pm)—In the 35 minutes left for this second reading debate I need to express concern that the Senate is being trammelled by a government intent on its own ideological agenda and not concerned with the interests of Australians. But, in the interests of fairness, I will limit my contribution to 10 minutes to allow Senator Fielding to participate in this debate. We are seeing an appalling contempt of the Senate. We are seeing the government not only thumbing its nose at the proven ability of the Senate to improve legislation but, more importantly and in particular, also thumbing its nose at those people in the community that I am going to particularly direct my comments to: people with disabilities, who will be affected by this legislation, and the people who work with them. This Senate has proven its worth as a chamber that has, through thoughtful deliberation, been able to improve legislation. That deliberation takes time. The development of good legislation also requires engagement with those in the community who will be affected by any proposed legislation. That too takes time, and it is time that we have not had in this debate.

The Senate, when it is allowed to be, is a powerful chamber. It is powerful in its capacity to provide the point of engagement between the legislators and the citizenry—when it is allowed to. Tonight we see another example of a government that is so arrogant, so out of touch and so full of its own importance that it will not allow the normal processes of the Senate to proceed. It will not allow any further involvement of the community in the legislative process. In his evidence to the inquiry, Mr Michael Raper from the National Welfare Rights Network said:

It has been very difficult to pull this together—he was referring to his submission—and to be frank I do not know how it is going to be possible for the Senate to know exactly what is doing when it is carrying this legislation. Even though we have given it our best bash we are sure we have not been able to fully comprehend what impact parts of this legislation will have and how they all fit together.

The result, Senators, is poor legislation—legislation that has not been considered and that impacts on Australians in ways we do not truly comprehend. That is what we will get with the legislation we are now debating and, I imagine, will pass tomorrow night. When we got here this evening we found a whole pile of amendments. As Senator Wong said, we in the Labor Party have had limited time to scrutinise those amendments. I do not know how people with disabilities, who do not even know that they exist, have had the opportunity to scrutinise those amendments.

The usual Senate practice, as we know, for legislation as complex and significant as this, is to refer it for a thorough inquiry. For this radical legislation—‘radical’ is Senator Humphries’s word, not mine—we had four days of hearings. We could not get to Queensland, the state that we know is most affected by this welfare proposal—the state that has the highest number per capita of people on the DSP and people who are single parents.
We did go to Albury Wodonga, and I place on record my thanks to those witnesses, who scrabbled together pretty well some submissions and gave us some very good evidence. We had three days in Canberra. It was an agenda that was constantly squeezed; senators were jostling for time to ask questions. It was a very unedifying process that the committee had to go through. I need to say that I was concerned that government senators took up considerable time during the Senate inquiry—time that could have been devoted to those people who were asking questions that they actually needed an answer to. And, as I have said in this place before, the inquiry could not be advertised, because of the time frame. I thank those witnesses who appeared, but I share their frustration at the time frame, at their limited opportunity for in-depth analysis and, most importantly, at the abject denial by this government of the facts. We have seen that in question time repeatedly over the last few weeks.

The fundamental fact in this legislation delivered by this ideologically driven government is that it puts people with disabilities and single parents, from 1 July 2007, onto a lower welfare payment. The government say that the purpose is to move people from welfare to work, and the method that they intend to employ is to reduce payments for people with disabilities and single parents. The obvious question to ask when that is put before you is: on what basis? What evidence does one have that reducing someone’s payments will lead to increased worker participation? In the inquiry we asked that very clearly of the department on the Monday morning. We asked it again of the department on the Wednesday morning. Finally, on Wednesday afternoon, a document was provided to the committee. It identifies five pieces of research. Three of the pieces of research say that if you increase welfare payments people’s likelihood of going into work is reduced. That is the converse of what this package will do. Any academic would say, ‘I am sorry—that is not evidence to support this type of proposal.’ There is a comparison of what happens between the genders in terms of welfare payments. And the one that I find it astonishing that they would have the gall to write on a piece of paper is that if you were to abolish the income support system it would lead to a significant increase in labour supply—that is, if you cut to nothing someone’s welfare payment, the likelihood is that people will get into work. That is not the proposal that the government are putting up; I certainly hope it is not in the back of their minds. But to say that that is the evidence to support the proposal that decreasing income support payments will lead to increased worker participation is bunkum.

We did not get from any of the witnesses any evidence—not one shred of evidence—to support that proposal, but we got plenty of evidence that said that the passage of this legislation will lead to increased poverty for children, particularly children of single parents, and for people with a disability. We heard that there would be incredibly increased complexity in the welfare system— not seen since the introduction of the Social Security Act in 1947. In concert with the industrial relations proposals that were bulldozed through this place last week, reduced rates of pay for vulnerable Australians would result as people compete against each other for positions and undercut their pay rates just to keep food on the table and the rent paid.

Senator Evans well covered the group of people who are going to be grandfathered, and I wanted to make some more comments about complexity, which I do not have time to do today. But I do want to take a minute or two to talk about people who have degenerative diseases—people with multiple sclerosis, Crohn’s disease, motor neurone disease, chronic rheumatoid arthritis and HIV-AIDS.
People with those sorts of degenerative ailments will be caught up in these proposals. This is a group of people who desperately want to have their voice heard in this process, and now, because of the truncation of the debate, will not. They are a group of people who I believe will be inadvertently caught up in these proposals.

The government’s proposal is to place people on Newstart—which everyone says is an inappropriate payment because it is an income support payment between employment, not as a supplement to employment. This is an inappropriate payment for someone whose condition is degenerating. The MS Society have been speaking to many of us in this chamber, but I do not believe they have been heard loudly enough. They are asking for three things in particular. Firstly, they would like people with degenerative diseases, with chronic illness or neurological conditions to be exempted from Welfare to Work—and they have good reason to ask for that. Secondly, they are asking that, with the comprehensive workplace assessment, they be guaranteed the capacity for people under review to obtain regular reviews within the two-year period—that is, they are asking for a guaranteed right to reassessment within those two years. Thirdly, they wanted a guaranteed capacity for people with those sorts of ailments to engage the appropriate type of support. I place that on the record because I am concerned that their story has been lost.

This welfare proposal fails every test of true reform. There is no evidence that reduced payments will increase work force participation. It does not build the capacity of those most vulnerable so as to enter employment; it builds an even more complex social security system in this country; and it will not build community cohesion—rather, it will build fear for vulnerable people in the work force, driving rates of pay down. Tonight I will conclude by giving the last word to the Brotherhood of St Laurence, given their report which was released today. They say:

We need to build the capacities of those least able to compete in our modern economy and ensure they are able to live with common dignity whilst we do. Without measures of this type we find no vision of a fairer society in what the Government is proposing.

Senator MOORE (Queensland) (10.33 pm)—I seek leave to incorporate speeches by Senators Polley, Stephens and Crossin.

Leave granted.

Senator POLLEY (Tasmania) (10.33 pm)—The incorporated speech read as follows:

I rise to speak on Employment and Workplace Relations Amendment .. Welfare to Work and other Measures ... Bill 2005
This bill is the inbred child of Mr Howard’s WorkChoice Bill.
It will income-starve the very people it should be motivating.
But Mr Howard knows fear is the greatest motivator!
He has used it regularly and to great advantage against the Australian people ... fear of race, fear of religion ...
All the old fear-favourites have been dished up over nine long years of fear-mongering by this Howard Government.
This is a Bill conceived from a mean heart and will be born into an innocent community.
This is a Bill that will be cruel in its maturity.
It is a Bill that will choose its victims from the most vulnerable in our communities.
I wonder how many of our community’s disadvantaged will grasp the bureaucratic concepts of ‘formal warning’ or non-compliance’. What will the children of a single parent understand about 8 weeks of income starving?
The children will understand one thing.
They will continue go to school on empty stomachs or they will miss school altogether.
These people don’t have an overdraft or gold credit card to carry them through their 8 weeks of income starving.

This government has no idea of the plight of those trying to survive on disability or single parents payment. They just don’t understand. The difference between us and this arrogant, extreme and out of touch Howard Government is that Labor believes people with disabilities and single parents need practical help.

We believe in pathways ... practical, long-term guidance towards a better life.

Not the misery of income starving

During the Senate Community Affairs Legislative Committee inquiry into this bill I raised the question:

How does cutting the income of a single mother for eight weeks help her build a secure future?

How does cutting the benefit help her children?

At no time has the Government been able to answer the question: Why have you cut people’s income and how will this help people get work?

It is fundamental to the government’s policy.

Why take food from the mouths of those least able to afford it?

Labor supports real reform that develops real opportunities for people to become job-ready and gain work.

We applaud the Brotherhood of St Laurence and the Women’s Disability Network for having the guts to persist against this cruel legislation.

They can smell Uncle Sam at our doorstep.

They can see us becoming Prime Minister Howard’s Little America.

This is a hard-right, survival of the fittest government.

It continues the downward slide between the haves and the have nots.

This Government is so out-of-touch with the ugliness and unfairness of poverty in Australia that it believes this bill is a solution.

Tell me how much a loaf of bread costs these days Prime Minister?

Tell me how much a litre of milk costs, Mr Costello?

And, how long has it been since many of those opposite caught public transport ...out of necessity? How much does it cost to ride on a bus, Mr Howard?

The national Director of UnitingCare Australia said she supported the government’s agenda to assist more social security recipients to get jobs. She said the group welcomed the increased investments in employment assistance and increased funding for childcare provision. She agreed with Labor that a job is a sure pathway out of poverty.

What she could not understand is how cutting someone’s income is good for sole parents and people with disabilities.

She urged the government to promote the value of employing people who live with a disability.

She reminded the committee that barriers and stigma from employers and workmates still exists for people living with a disability.

Mr Acting Deputy President, what support will there be for people with a mental illness entering an open workplace?

Some people will face many knock-backs.

How will such continual rejection affect their existing mental health problems?

Health care professionals will tell you that it is also difficult to accurately assess the capacity to work of a person with a mental illness.

If they are wrongly assessed as being capable of working 15 hours a week and are placed on Newstart how will they cope with all the activities expected of job search?

Will their payments be cut? What effect will that have on their health and well-being?

Mr Acting Deputy President, there should be no cuts in payments or tighter income tests.

There should be more investment in programs to assist people make a successful long-term transition to work.

The compliance and penalties should be graduated and less severe.

There must be greater access to clear information along with specialist recruiting and support services.
Most importantly the obligations of employers must be spelled out.

The Auditor-General previously has indicated concern with regard to Job Network and the Department’s oversight of the Job Network.

Labor is concerned about Job Network’s capacity to deal with people with a disability in particular. We know the Job Network has been very good at helping people into employment who are relatively easy to place.

But we have had around about a 60 per cent increase in people who have been on payments for over five years in the term of this Government.

The Job Network needs to refocus on people who face substantial barriers to employment.

We share the concerns of many in the community that the Job Network will not adequately help people with a disability.

Australia’s disabled and their families deserve to know exactly how this government plans to prevent the exploitation of disabled Australians.

There must be no tolerance of abusive employers. There must be on-going specific measures to ensure that people with mental illness or psychiatric disability are not abused in the workplace.

Disability discrimination is still rampant among Australian employers.

People currently with limited levels of education are engaged in low-paid, short term or casual jobs.

Mr Acting Deputy President, how are these people expected to sustain 15 hours work in an unregulated workplace?

Under WorkChoices employers will have no obligation to provide continuity of employment.

The Australian Mental Health Network rightly holds fears for the people it represents.

This bill is a disgrace. The Howard Government is a disgrace. They will ram this bill through in a disgraceful act less than 48 hours from National Disability Awareness Day!

Disabled people are not welfare cheats or unwilling to work, but the level of stigma and discrimination that they face is regularly overwhelming.

Let me tell you the story of Ron.

At age 48 Ron suffered brain damage after a heart attack. Ron was a painter by trade, a leading hand.

After two years of rehabilitation he desperately wanted to return to work. He had poor concentration and no short term memory.

He went back to his old job as a painter. He was proud he could return to work.

But soon the workplace turned on Ron. Day after day he was sent to jobs no-one else wanted.

Days of sandblasting storage tanks. Doing the jobs that no one else wanted.

Then, Ron got cancer. Liver and stomach cancer and died a miserable death in August 1988, six months after diagnosis and some years after he recommenced work.

His widow fought his employer for 10 long years trying to prove her mentally disabled husband’s contact with known carcinogens had caused his death.

She got nowhere.

What will happen to the Rons of this world in a deregulated workplace?

Compassion. Where is your compassion? Employers have historically taken advantage of people with a disability.

Mr Acting Deputy President, you know that to be the truth.

Now they will have the ultimate employee ... a person without the mental capacity to defend their rights and with no law to force the employer to do the right thing.

Government backbencher Judi Moylan rightly said there will be extremely adverse results for single parents and people on disability under this cruel law.

The truth is, her government has missed a golden opportunity to meaningfully reform welfare.

These poor souls will be punished and they will mostly be invisible.

This bill will just move people from one queue to the next ... instead of welfare they will be on the dole!

They will have the same bills, but less money.
The Howard Government’s welfare changes have lost all credibility.

This government has no compassion.
Research shows that people with a disability will have a return from work of $2.27 an hour and be up to $122 a week worse off.
These were the findings of the National Centre for Social and Economic Modelling (NATSEM), an organisation the Prime Minister has described as “independent”, “objective”, and “respected.”
The government will claw back up to 75 cents of every dollar earned by people with a disability, making work far less financially rewarding than it is now.
These are unfair changes.
There will be far less reason for people with a disability to work than there is now.
Employment Minister Peter Dutton should explain why he thinks people with a disability should only get 25 cents of every dollar they earn?
Does anyone believe that Mr Dutton would work for $2.27 an hour? No I don’t think so!
Only a government that is completely out of touch and arrogant could propose such extreme changes.
The Howard Government tells people with a disability to work, but it has reduced the proportion of people with a disability it employs from 5.6% to 3.8%.
The evidence shows that people are more likely to move from welfare to work with the right help and financial incentives.”
Labor’s Welfare to Work Tax Bonus proposed would make work more worthwhile by increasing the tax-free threshold to $10,000 for people earning under $20,000.
There are 160,000 Australians on disability and supporting parent benefits and they are struggling to raise 85,000 children.
Welfare to Work with WorkChoices means people who find work might actually end up poorer than before.
The Newstart payment for a sole parent means the loss of up to 75 cents of every dollar they earn, back to Mr Howard’s Scrooge-like government.
The Prime Minister has made sure they will have little bargaining power.
According to Centrelink figures some 56,420 Tasmanians are on Disability, Newstart and Single Parent benefits.
From next July when a person with a disability or a sole parent applies for a pension and is assessed to be work-capable for 15 hours a week they will be put on Newstart.
Them may have to wait up to 13 weeks before they receive a payment. If they have some money in the bank, the grand total of $2500 for a sole parent the will have to wait an extra week for each $1000 they have in the bank over $2500.
Grandfathering ...a term conjured up by this mean government in a paternalistic attempt to sound kind.
How long will grandfathering protection last?
Many recipients don’t have faith in Mr Howard to return the grandfathering provision.
What will a single parent in Launceston do when their benefit is cut by $57 a fortnight?
What type of government wants to force a family to live on $437 a fortnight?
There are many wonderful stories about sole parents, who against the odds, have achieved qualifications and carved out better futures for themselves and their families.
During the Senate committee inquiry I was inspired by Dr Elspeth McInnes from the national Council of Single Mothers and Their Children.
This legislation, Dr McInnes said, does not reflect the Prime Minister’s promise that parents would not be forced to take work where their childcare and travel costs produced a net financial loss.
She agreed that Australia needs more skilled and educated workers but that this legislation increases the difficulty of accessing education and skills for sole parents.
Not all sole parents have the skills to access appropriate jobs to match their family’s needs.
This legislation does not offer nearly enough diversity of child care or child care places to meet the diversity of sole parent demands.
Many sole parents will not be able to find 15 hours a week of work in family friendly hours.
Mr Acting Deputy President, what about the person who doesn’t have the intelligence or skills to know where to start on such a journey?

We have to acknowledge that there are people in our community who might never have the skills to improve their lot.

Are they worth less? This government thinks so.

What about the person with below average intelligence and no social support network to nurture them back into the workforce?

The churches and community groups have already expressed their concerns about this terrible social policy. The Society of St Vincent de Paul has asked the government to hear their plea.

They say their resources will be stretched, they are not sure that they will be able to cope with the anticipated increase on demand for their services.

But once again they are been ignored...the government hasn’t listened.

When the government says the “best form of welfare is a job” what they are really saying is ‘society wipes its hands of you’.

These are extreme changes that provide no support networks for the most vulnerable in our communities.

Who will pick up the pieces of the disabled Tasmanian who desperately tries to fulfil an obligation, but finds himself floundering.

Cuts to income support won’t help someone find work.

These new jobs, will they be sustainable and will they offer protections from employer abuse?

It is not just a lack of technical skills that keeps a sole parent or a disabled person out of the workforce.

The barriers for single parents can be especially difficult to overcome, particularly in regional Australia.

In regional Australia child care options for a working single parent are limited.

Most regional child care services offer strictly 8am to 6pm child care.

Where will an unskilled mother leave her children when she is expected to stack supermarket shelves of a night?

Mr Howard and his arrogant, uncaring policies mean the re-emergence of the latch key child.

Remember the latch key child?

The latch key child was common during the 1950’s and 1960’s before the Australian workplace was reformed into the fair and family friendly place it has become.

Under this mean and arrogant Howard Government all new parenting payment recipients whose youngest child is 8-years-old or older will be moved onto an allegedly enhanced Newstart Allowance.

Single parents and people with a disability who apply for income support in the future will be especially hard hit.

On current figures the amount of this reduction will be $77 a fortnight for disability pensioners and $44.30 a fortnight for sole parents.

It gets worse ... from July 1, 2006 people on these so-called enhanced benefits will lose a range of other benefits including the Pensioner Education Supplement and the Telephone Allowance.

In Tasmania there are 25,855 people on Disability Support Pensions and 13,550 on Single Parent Benefit.

Jobs can be thin on the ground in Tasmania.

Childcare is regularly thin on the ground in Tasmania.

Out-of-hours childcare is almost non-existent.

I have been amazed since being elected about just how out of touch and arrogant this government has become.

Do they not realise the fear that consumes an intellectually disabled person when they think the government is “after them”?

They must not - because from July 1, 2006 disabled people deemed to be able to work 15 to 29 hours a week will only qualify for the so-called enhanced Newstart allowance.

It was not a generous act when this mean Howard government decided that sole parents could have until their youngest child turns 8 before being dumped onto Newstart.

What choice will they have?
You can imagine some poor unfortunate soul being bullied to accept wages and conditions out of fear of Centrelink reprisals.

Don’t pretend such situations are rare. Even in a regulated workplace, there have been thousands of employers who seek to take advantage of the most desperate and ill-educated in our community.

This is fundamentally unfair because it does not provide the support that disadvantaged Australians need to get a job.

It aims to cut the number of welfare payments ...

It is a legislation of no care and no responsibility ...

These Australians are the least able to defend themselves.

Labor supports real welfare reform. Labor knows that a working sole parent can be an inspiration to their children.

Labor knows that a single parent who studies, strives and achieves produces children with similar aspirations and ideals.

But not everyone can cope with the study, work and children.

Some sole parents cannot cope with much more than the daily demands of getting children to school and putting food on the family table.

We need strong safeguards and we are obligated to provide secure childcare.

We should be offering people on benefits a ‘fair go’.

Why is the government pushing through this legislation because they can because they are arrogant and they can.

They will not get a fair go in Mr Howard’s bleak workplace future.

The will not get a fair go when the only defence of workers rights and conditions has been gutted and where the survival of the fittest is the only rule.

Senator STEPHENS (New South Wales) (10.33 pm)—The incorporated speech read as follows:

The measures outlined in this bill represent the biggest changes to social security since the Social Security Act was introduced in 1947.

This government is imposing radical and extreme changes to that legislation and stands condemned for their insistence that these changes do not deserve scrutiny. By guillotining the debate on this bill, the government is continuing a theme of minimal scrutiny, and less transparency.

This legislation will impact of hundreds and thousands of Australians. Yet, the government has scheduled just one day, in which to fully debate these extreme changes.

Just one day to debate legislation that will dramatically impact on

- Over 75,000 people with a disability
- 85,000 single parents; and
- at the very least – 85,000 children of these parents

moving them onto Unemployment Benefits and leaving at least 300,000 people worse off for no good reason.

I would like to take the Senate back to 15 May 1947 when the late Labor Senator, Senator Nicholas McKenna – then Senator for Tasmania and Minister for Health and Minister for Social Services under the Chifley Government – introduced the Social Services Consolidation Bill 1947. This bill repealed 43 whole acts and the portion of seven other acts and consolidated social service benefits into five broad headings:

- Invalid and old age pensions;
- Widows’ pensions;
- Maternity allowances;
- Child endowment; and
- Unemployment and sickness benefits.

This was a massive consolidation of legislation—something we see quite commonly with this Government—but there was a fundamental difference in the intent of those legislative changes.

For you see, the then Labor Government outlined quite explicitly that this legislation was not about the radical stripping of pensions in pursuit of a blind and extreme ideologically driven agenda. In fact it was the exact opposite.
Quoting from Page 2410 of the Senate Hansard:

…the Government is taking advantage of the opportunity to provide substantial increases in the rates of invalid and old-age pensions, wives’ allowances, and widow’s pensions, and to liberalise and improve many of the existing provisions. In all but very few cases, the substantive alterations of the present law constitute improvements and extensions of the various services embraced in the scope of the bill.

Senator McKenna went on to outline the fundamental principle of social services in Australia, a principle that is stripped out of the legislation in front of the Senate today.

The basic idea underlying the rapid development of social services in this country is, whilst sponsoring and supporting the family unit, to provide security for the people against the social ills of old-age, infirmity, unemployment and sickness, and so ensure to every individual, as far as is humanly possible, man’s [sic] most priceless possession, peace of mind.

Peace of mind.

Government Senators must surely understand that the reforms in front of us today steal that away.

This legislation will drastically cut household budgets for families who can least afford it.

This will happen because these people will be shuffled from one Centrelink database to another – just in time for Christmas!

Merry Christmas from the Howard Government.

The government argues that people won’t be worse off, so I would like to focus on one of the groups that this legislation will disproportionately affect. That is Australian women.

For Australian women, the main changes of the bill will be:

• To abolish the Parenting Payment for sole parents with a youngest child of 8 or more and for partnered parents with a youngest child aged 6 or more. Currently the cut-off age is 16; and

• Modify Newstart so that parents affected by this change can be required to seek and accept work of 15 hours or more and undertake other activities as directed by Centrelink, such as work for the dole or any other activity (but not volunteering).

In other words, this legislation will catapult at least 85,000 single parents from their current pension to what is commonly referred to as the dole, where their income will be drastically cut.

And, in another sinister attempt to silence dissenting voices in this debate, the government has been at it again.

The National Foundation for Australian Women alleged that the Office of Women – a Federal Government Agency – threatened some groups with funding cuts next year if they used government grants to contribute to the cost of the research being undertaken by NATSEM (National Centre for Social and Economic Modelling) on the impact of the welfare to work policies on women.

According to the National Foundation for Australian Women when they began calling for financial assistance to fund NATSEM modelling, the Office of Women warned them not to proceed.

If I can quote from Ms Coleman from NATSEM:

The Office for Women advised the women’s organisations’ secretariats that they were not permitted to use their grants for such a purpose, and demanded that the pledges not be honoured, on pain of deductions from their 2005-06 funding.

The Australian Women’s Coalition has confirmed that they had been approached by the Office of Women warning them not to pursue with funding. How disgraceful; disgraceful, yet typical of a government that rules with arrogance and coercion. Where dissent and criticism are to be shut down as quickly as a student union, collective agreement or in this case a welfare payment.

So why did the Government want to emasculate this NATSEM inquiry?

The reason is actually very clear.

The National Centre for Social and Economic Modelling report found that people with disabilities and single parents would be significantly worse off under these changes.

The study found that people on the disability pension would be $120 a week worse off, while those on the Single Parenting Payment would suffer a cut to their income of some $100.
It showed that single parents may have effective wages as low as $3.88 an hour from July 1 next year if they take a job for 15 hours a week at the minimum wage of $12.75 an hour.

For those with a disability, the effective wage can be as low as a disgraceful $2.27 an hour. Not much peace of mind there!

As the report states on pages 17 & 18: … the disposable incomes of sole parents with one child aged six years and over are much lower under the proposed new system than under the current system over a very broad range of private income. The losses sustained by sole parents amount to almost $100 a week when earnings are between about $200 and $450. 7 As shown in Table 3, for example, the proposed new reforms reduce the ‘take-home’ incomes of sole parents with one child and earnings of $200 a week from $531 under the current system to $439 under the proposed new system – a cut of $92 a week. This effectively represents a 17 per cent cut in the living standards of these sole parents and their children. It should perhaps be mentioned again that cuts of this magnitude will be experienced almost overnight by sole parents when their youngest child turns six.

We know that women represent the overwhelming number of people receiving the single parent payment.

Figures from the 2000 Family and Community Services Publication titled Income Support Customers – A statistical Overview found that of the 397,278 people receiving parenting payment single as of 2000, females accounted for 368,820 which equates to 92.8% of total recipients. So, over 9 out of 10 people receiving this payment are women.

A submission from the Council of Single Mothers and Their Children (Victoria) to the welfare to work inquiry indicated the level of disadvantage of single mothers.

Using figures from the Australian Bureau of Statistics coupled with those provided in the 2003 House of Representatives Standing Committee report on Child Custody Arrangements they found that:

- Over half a million Australian families are single parent families;
- Single mother headed families represented 83% of these families in 2001;
- 91% of parents who are entitled to child support are mothers;
- Of parents entitled to child support, only 4% had incomes over $50,000 per annum and 75% raise children on incomes below $20,000.
- In 1999-2000 single parent families had an average income of $295.00 a week.
- NATSEM recently estimated the weekly cost of two children on an average income to be $310 a week.
- Single mothers work more than any other income security recipient group and are engaged in paid work in similar rates as partnered mothers.

NATSEM asserts that single parents are the most financially disadvantaged families in Australia and that those single mothers without paid work and those who manage part-time wages are frequently surviving on incomes under the poverty line that they already fit the description of working poor.

Both the Victorian and National Councils of Single Mother & Their Children made submissions and appeared as witnesses to the inquiry and both passionately argued about the dangers of these extreme changes.

Dr Elpeth McInnes, the Convenor of the National Council of Single Mothers & their Children’s stated in their evidence to the committee that: …the changes proposed in this bill basically abolish the last 25 years of social security development, which has responded to the issues in Australian society and built in protections for families who find themselves reliant on income support, by abolishing the parenting payment single once the youngest child turns eight. We are basically turning back the clock on the level of support available to the most vulnerable families. There will be increased poverty outcomes and increased hardship arising for those families.

As with extreme Industrial Relation legislation rammed through this Chamber last week, these
extreme welfare to work changes will abolish decades of evolution with a swift drop of the procedural guillotine.

The Committee received evidence from a range of women's organisations who put their case against the changes.

There was much concern about dumping single mothers onto the dole where their income will be drastically and they still may not be able to find a job.

Ms Roslyn Dundas, the ACT Convenor of the Women's Electoral Lobby succinctly and poignantly outlined this problem:

...this current legislative program fails to recognise that many sole parents and women with disabilities will not be able to find work in what already is a tight labour market, given their limited experience and ability to undertake certain hours and/or types of work. Many of those receiving income support have not been able to find work in the past because of personal circumstances that are exacerbated by poor levels of education, little or no recent work force experience and a lack of confidence. Health problems, cost of transport, the needs of their children and many other issues impact on their ability to find what already are scarce jobs. On the other hand, many sole parents want to work and many currently work in paid or unpaid capacities. WEL believes that this legislation is unfairly harsh in its understanding of the reality that many sole parents are facing.

The Government has admitted that around 300,000 Australians will be financially worse off under these changes, but only around 109,000 will gain work.

For many this will not be welfare to work, it will just be welfare to less welfare and from poverty to increased poverty.

The Government will just be adding hundreds of thousands to the dole queue, a queue that won’t provide them with the training they will need to find work, it will just provide them with less money.

For disabled women, the picture is even worse.

Women with Disabilities Australia argued in their submission, that it will mean that disabled women – some of those who will be the most disadvantaged by these changes – will be placed in an abysmal position, a position where they are locked in a poverty trap in which they cannot escape.

The legislation will abolish the Disability Support Pension for people with a 'partial capacity' - that is who could work 15 hours or more (currently 30) at award wages, or could be expected to be able to work at that level within two years, with or without rehabilitation, training or education.

Now, contrary to this Government's belief, women with disabilities and disabled people generally want to work, and those that can do.

Many of those on the Disability Support Pension are active jobseekers. They’re not been sitting at home bludging off the system as this government would have us believe.

For those not in the workforce because of poor literacy, general education or skills, there is nothing in this legislation to help them.

They deserve dignified and meaningful employment coupled with strong training support. They need a helping hand, not a brisk swipe with a conservative stick.

As argued in the submission from the Women with Disabilities Australia:

Women with disabilities have a right to meaningful employment, not 'any' employment. Women with disabilities are not ‘job snobs’. Research undertaken by WWDA, and indeed supported by similar research the world over, has demonstrated that women with disabilities do not need ‘motivation’ to take up paid employment. Those who have the capacity to work, actively seek work, and are constantly frustrated in their efforts by discrimination, and by the lack of jobs which can accommodate restrictions which arise because of their disabilities. Therefore, what they do need is the elimination of discrimination and negative stereotypes from both a gender and disability perspective which compound their exclusion from the workforce. What they do need are access to support services, social and economic opportunities, and social acceptance to enable the full participation in community life to which they aspire.

Rather than taking a stick, to an extremely marginalised and disadvantaged group in our society,
the Australian Government must act responsibly by employing focused, gender-specific measures to ensure that disabled women gain maximum participation in the labour market on the basis of equality.

So, Senator McKenna’s vision of ‘peace of mind’ is being shattered by this legislation that is aimed quite clearly at the most vulnerable in our society. This isn’t how the Australian Labor Party believes people should be treated.

We will oppose this bill.

Senator CROSSIN (Northern Territory) (10.33 pm)—The incorporated speech read as follows:

This bill, according to the explanatory memorandum, implements the government’s welfare to work reforms and “encourages” increased workforce participation for those with the capacity to work.

The government claims that it will assist and encourage participation in the workforce, improving returns from work for those receiving allowances.

The government as usual sells the bill with a lot of great spin, saying the best form of family income is from paid employment, that we should all work to our capacity, and indeed these sentiments are hard to disagree with. As usual this government has a great way with words.

However, the trouble with this government is that they NEVER actually give anything away, there is ALWAYS a sting somewhere, and when detail is available and examined they have NEVER told the whole truth in their sales pitch. So it is with this bill. Now that there is sufficient known of the detail, many organisations and individuals are both alert and alarmed.

For what this bill actually does is to enable the government to change eligibility for Disability Support Pension (DSP) Parenting Payment Single (PPS) and Parenting Payment Partnered (PPP) so as to actually restrict access to these payments.

It does this by forcing recipients onto Newstart Allowance – a much lower payment with a far harsher range of obligations to meet in order to receive the benefit and a more severe compliance regime.

Centrelink staff will also have greater discretion in determining what these obligations will be (and we have seen with DIMIA what can happen when public servants are given great decision making powers!)

Answers provided to Senate estimates questions have not helped allay any of the fears either. We now hear for example that in this bill there is no legislation restricting what the government can demand of someone on the dole. Existing safeguards are removed in this bill – a welfare recipient could be asked (or told) to move house if government thought that improved their chance of employment.

Government officials at estimates thought this would be unlikely but under this legislation there is nothing in fact to stop that sort of demand being made. There is no guarantee – no safeguard – just as with all the Howard Government workplace legislation the ordinary Aussie battlers are being thrown to the wolves with no safeguards to protect them, their families or working conditions.

ACOSS, in a press release on 10th November “…pointed to the many flaws in the welfare to work legislation…”

They go on to point out that while some change has been made to the bill, the vast majority of people – 85% - originally estimated as being worse off under this package, will still stand to lose.

Single parents will still be put on to lower payments and lose at least $30 a week when children turn 8 after July 2006.

People with disabilities will be put onto lower payments (Newstart or Austudy) rather than Disability Support Pension after July 2006 – a loss of at least $46 a week income.

Those on unemployment payments such as Newstart could lose payments for 8 weeks if they refuse a minimum payment job, have to leave a job or do not meet requirements for work for the dole.

So as usual with this government they come out with sweet sales talk but then do things by bullying – by the use of the stick to “encourage” the unemployed or disabled to get work, any work, rather than any “carrot” which see people ultimately worse off.
In that ACOSS release (10th Nov), the Uniting Care Director Lin Hatfield Dodds sums it up in saying “Rather than cutting payments to jobless Australians we need more targeted assistance to help people get ready for work and then supports to assist them moving in to work and stay there.”

Maryanne Diamond, CEO of the Australian Federation of Disability Organisations said (press release 10th Nov) “Together with the industrial relations bill, the welfare to work legislation is the biggest attack on the rights and welfare of people with disability in our history. If passed the changes will leave people with disability as second class citizens.”

Just as there is no evidence that the work choice legislation will increase employment or productivity, so there is no evidence this welfare to work bill will do anything to help the sole parents or disabled in to work. Rather, just like the work choice bill, it is simply a government attack on Australian people and their living standards.

It is not only ACOSS that has said these changes are flawed, but also a study by the National Centre for Social and Economic Modelling (NATSEM). Their research also showed that under these changes most people will be left worse off and have little real incentive to work. (Their analysis is taken from National Centre for Social and Economic Modelling, University of Canberra, The Distributional Impact of the Proposed Welfare-to-Work Reforms Upon Sole Parents, Ann Harding, Quoc Ngu Vu, Richard Percival and Gillian Beer, 25 August 2005.)

Sheridan Dudley, head of Job Futures (ABC News Online 22 November) criticised the legislation, telling the Senate Enquiry some job seekers will be worse off if they find work and saying “People should not be required to put themselves in a position of having a lower net income simply for the sake of having a job.”

This is caused by the government ripping back up to 75 cents in every dollar earned, out of any welfare payments. So the person is left working effectively for very little, and hardly any more income from their efforts.

That’s hardly any incentive. It is certainly only a tiny carrot – but that’s why the government has the big stick up its sleeve in this legislation. The welfare recipient can be told to move house to get work, to take ANY job however poor the conditions or lose welfare. The big stick indeed.

The St Vincent de Paul Society in their submission (number 20) to the Senate Community Affairs Committee of inquiry said that this “package will do nothing to address the causes of poverty and inequality in Australia.” (page 1)

They continue “The 2005 welfare reform package lacks both fairness and vision. Instead of seriously investing in people who have already been locked out of prosperity….it shifts these people from one benefit to another lower paying benefit and subjects them to having payments suspended.”

Unless this government does more than try to force people off welfare into work, without looking at the underlying problems that cause their exclusion from the work force participation then St Vincent de Paul believe we are headed down the American line to ultimate increasing poverty.

Under these reforms single parents who remain unemployed will receive at least $29 a week less than the pension (St Vincent de Paul submission page 3) and if they study it will be $63 a week less. If they actually get a job for 15 hours a week at the minimum wage they will actually end up with $96 a week less to spend.

The majority of people caught in this trap will of course be women, often with lower educational qualifications and eligible only for the lower paid jobs in the casual labour market too.

Marie Coleman of the National Foundation for Australian Women and What Women Want Consortium, quoted in Canberra Times 22nd November says these proposed changes are a grave attack on women’s well being that will plunge more into poverty. These changes are seen as unnecessarily harsh and punitive.

These women are the absolute ideal victims for the Howard Government Workplace relations changes. No strength from which to bargain, forced under threat of loss of welfare to take any old job going. There’s real encouragement to join the workforce.

Casual work, low wages, minimal conditions – take a day off to mind a sick child and you get no pay and can even get the sack!! Then lose wel-
fare benefits for up to 8 weeks. Let’s forget the government sweet words and spin about this bill – THOSE are the real implications of passing this legislation.

Then maybe we should look at the jobs situation anyway. In August 2005 the ABS figures ( Table ABS 6354.0) showed there were 140,900 job vacancies – a fall of 1.8% from May. However, in October there were 549,000 persons unemployed ( ABS 6265.0). So getting a job for anyone other than the highly skilled would not be easy.

Church based members of the Job Network ( Catholic Welfare Australia, Anglicare and so on) which account for about one fifth of the employment agencies used by government, already find it difficult to find suitable jobs for those with disability.

The CEO of Catholic Welfare Australia , Frank Quinlan, quoted in the Sydney Morning Herald, 21st November said the proposed new system “makes no sense.” He went on to say that more money should be spent on training so these people have a better chance of finding a good job. He further suggests that work for the dole should be turned into a proper vocational training system.

However, this government has made only 7600 new vocational places available, while ACOSS estimate that 176,000 people will be worse off alone – so training places are there for only about 4% of those being “encouraged” into work.

While job income may be the best financial support for a family, this should NOT be at the expense of parents’ ability to care for their children, especially the younger ones.

Unlike the government HREOC are of course also concerned at any change that will diminish family income, exacerbating any difficulties parents have in making financial and caring arrangements ( Submission paragraph 8). They say specifically that “…the bill has done nothing to assist families find childcare, in a context where childcare is increasingly expensive and difficult to access…”(Para 9).

This may make the participation requirements very difficult to satisfy for many.

HREOC are also concerned at the discretion vested in public servants ( Centrelink) in making decisions about paid work, welfare and caring arrangements a family may make. Public servants may not be in the best position to make such decisions about the caring needs of a child, in what may be a complex situation.

With regard to people with disabilities, HREOC research shows that the costs associated with work force participation present barriers to both employers and potential employees. For the latter, costs such as transport; any increase of income leading to loss of concessions or subsidies; extra personal care needs for example may be disincentives which the present bill does not address.

So this bill has many shortcomings and flaws. In order to try and hide all these flaws and true effects of these proposed changes the government is again using its numbers to rush legislation through with minimal time for proper inquiry.

If passed this legislation will mean that the people of Lingiari, in the NT , will be the worst affected in the nation, with ACOSS research (ACOSS Info 381, October 2005) estimating that 4.3% of the population will be worse off – and of course many of these will be Aboriginal women.

So Labor oppose this bill on many grounds. Because people will be dumped from one welfare payment to another lower one.

Because the bill in fact does NOTHING to assist and support people moving from welfare to work, indeed they may well end up worse off financially.
Because this bill does NOTHING to support the people with any additional assistance or vocational training.

Because Labor supports real welfare reform that goes beyond what this bill does, which is merely dumping people from one Centrelink data base to another.

Because real reform would tackle the reasons why people are not working, look for reasonable, practical solutions to break down these participation barriers, and have genuine fair and reasonable requirements for job seekers.

This bill does none of those and the truth is that it will force the disabled and the mothers on parenting benefits to make undesirable choices which will almost certainly see them and their families worse off.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (10.34 pm)—For over a decade there have been calls for welfare reform. The very punitive reforms before us today were put up by this government some years ago but were rejected by the Senate. They are back again and are soon to be rammed through now that the government has the numbers. The pity is that, rather than doing the hard policy work needed and rather than taking the advice provided by the McClure report of a couple of years ago and, indeed, the report of the Senate inquiry, this government has taken the cheap and nasty and quick and dirty option that punishes people. Instead of people being helped to move from welfare to work and being assisted with jobs, they are being pushed and prodded with a big stick and many will fall over.

There was an opportunity for real reform. There was the opportunity to take away the many barriers that sole parents and people with a disability face when they are trying to enter and stay in the paid work force and to move out of the poverty of welfare. The disgrace is that this government has chosen instead to punish the already extremely disadvantaged and marginalised by providing them with less income. Quite frankly, I find it hard to understand why a government would do this—a government that has, as we understand it, $12 billion in surplus; a government that is again talking about being generous to high-income earners by reducing their taxes. The Prime Minister says that the gap between the rich and the poor is not increasing. If it is not, it will do after this legislation gets guillotined through sometime tomorrow.

These bills, the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 and the Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005, change the eligibility rules for the disability support pension and parenting payments, and the categories of people currently eligible for those payments will from now on only have access to unemployment benefits—or Newstart, as the government calls it. These bills will change the eligibility test for the disability support pension so that it is based on the capability to engage in employment of 15 hours a week rather than 30 hours a week, which is the current cut-off—therefore tightening the test and making it harder for people with disabilities to qualify for this payment and forcing them onto the lower Newstart allowance.

New applicants for parenting payment after July 2006 will be transferred onto the lower Newstart when their youngest child turns eight, unless they have four or more children. Originally, it was to apply when your youngest turned six and it did not matter how many children you had. Sole parents and people with disabilities forced on to Newstart will also be forced to comply with the same sorts of activity agreements as people who are unemployed—able-bodied people and people without children—or face harsh penalties. The government is essen-
tially getting rid of payments which are structured to meet the needs of people with disabilities and parents with caring responsibilities and forcing them onto payments designed for short-term support for individuals who have no significant caring responsibilities, health problems or disability.

I want to focus this evening on people with disabilities and, in particular, mental illness. I was going to talk about degenerative disease such as MS, but Senator McLucas has covered that area. Newstart puts people with mental illness or psychiatric disability onto a lower level of welfare support—which a recent NATSEM report revealed is initially 20 per cent less than the disability support pension. In 2006-07, this will be an immediate gap of $46 a week.

Over the longer term, the gap between those able to access the disability support pension and those who are only able to access Newstart will widen further, because the DSP is an indexed payment whereas Newstart is not. The raft of conditions associated with Newstart will also mean that people with a mental illness, if they are able to manage their condition to the extent that they are able to work 15 to 30 hours a week, but who cannot work full-time, will, in fact, be penalised for this.

Despite all the government’s talk of encouraging greater participation in the work force, those people with a mental illness who struggle to find and keep jobs that are flexible enough to accommodate their special needs will have their gross income dramatically cut because of the high effective marginal tax rates. People with mental illness are among the most socially and economically marginalised, both from and within mainstream society. Labour force non-participation and unemployment levels for people with a psychotic disorder stand at 75 to 78 per cent in Australia—considerably higher than many OECD countries, including the United Kingdom.

In 2006-07, a single DSP recipient will be able to earn $64 a week without any reduction in their income support, but they will be able to earn only $31 on Newstart before their support is reduced. For every dollar of income DSP recipients earn above their threshold, their payment from government will be reduced by 40c, whereas on Newstart it will be reduced by 50c to 60c in the dollar.

Over 36 per cent of those currently claiming the disability support pension have psychiatric problems and intellectual and learning disabilities. The fact of the matter is that people with mental illness, unless it is life-threatening or they can afford private hospital psychiatric or psychological care, are likely to be denied care and left to fend for themselves.

The Australian Mental Health Consumer Network submission points to research from around the world showing that people with mental illness do not need motivation to take up paid employment. Those who have the capacity to work actively seek work, and are constantly frustrated in their efforts by discrimination and by the lack of jobs which can accommodate the restrictions which arise because of their disabilities.

Mental illness, generally, is episodic and fluctuating in nature, despite the best possible drug treatment and access to good psychological and social support. People with mental illness who are in paid employment are far more likely to stay well than those who are not in paid employment. There is indeed an imperative for them to get jobs but there is nothing in this legislation that will help them to do that. Work contributes to a person’s sense of identity, fulfils the basic human need to be productive, obviates the stigma of mental illness and plays a significant part in recovery for a person with men-
tal illness. Scott, aged 39, says: ‘With mental illness issues, loneliness and boredom are a good recipe for becoming unwell. Work has structured my time so that even if I feel lazy and unmotivated I have to get into action and attend and perform in my job. For people who are ready to take the next step, of some degree of work, I encourage the system to give them every opportunity, as it is vital to that road to recovery.’

The biggest barriers to employment are not those directly caused by the mental illness or even the side-effects of any medication that a person may be taking—they are systemic, resulting from community and workplace stigma. A recent review of research into the attitudes of employers towards people with a mental illness shows that the attitudes of employers reflect the ignorance and stigmatising of people with a mental illness that is common in the broader community. That means many employers believe that people with a mental illness are unable to work, or that it is not possible to accommodate mental illness within the workplace. A recent study of mental illness and employment by Professor Vaughan Carr surveyed businesses and found that 77 per cent of employers were reluctant to employ people with a mental disorder. I think this is a disgrace.

Strategies are needed to support the participation of people with a mental illness in the workforce. Strategies are needed that help eliminate the discrimination and negative stereotypes that exist in workplaces. Strategies are needed that provide support to people to enter and maintain employment as the course of their illness fluctuates. The Mental Illness Foundation says there are real gains to be had if governments put in place additional infrastructure to enable those with a mental illness who want to work to do so. Mental illness is the leading cause of morbidity, as measured by years lost to disability, and, at 14 per cent, the third leading cause of overall disease burden after cardiovascular disease and cancers. Cutting the incomes of those with a mental illness does not address these barriers.

The Commonwealth Department of Family and Community Services’ survey in 2002 found that people with psychiatric or psychological disabilities were, at 30 per cent, the largest disability group seeking assistance from employment service providers but had the poorest outcomes. Following disability employment assistance, 44 per cent of job seekers with psychiatric disabilities remained unemployed, while a mere 23 per cent obtained durable employment—defined as accumulating six months or more of employment. The government’s proposals will cut the incomes of the 44 per cent of people with a mental illness who are unable to get a job despite meeting all of their mutual obligation requirements. It will also make already vulnerable people even more vulnerable, by exposing them to harsh compliance and penalty systems that could see them lose their payments for eight weeks.

Many people with a mental illness, because of the nature of their disability, will struggle to meet the requirements of the complex compliance regime that they will face for the first time. Under this legislation, these people will be punished by losing even more of their income, which will have been reduced already because they have been placed on Newstart. So how will this help people with mental illness get to work? The Breaching Review Taskforce report earlier this year found that reducing an unemployed person’s income support is counterproductive, as it simply makes them poorer, less able to move about and more dispirited, making it all the harder for them to look for work. Research reported by the Social Policy Research Centre last year found that 17 per cent of people who had been breached and
had their incomes reduced had cut down on medication that they needed.

We can only wonder what effect cutting down on medication will have on the ability of someone with a mental illness to look for work. In the same way, we can only wonder what effect it will have on someone with a mental illness to have to apply for job after job, year after year and be unable to get one because they have a mental illness and need retraining, support and sympathetic employers. This government should be helping people with mental illness to overcome those barriers rather than pretending that they are not there and simply denying that many people with a mental illness will be unable to get a job and will simply end up having to live on the lower Newstart allowance.

I have barely touched on the thousands of people with a mental illness who are currently on the disability support pension and whom this government has effectively abandoned. I refer now to an email I received from a constituent whose adult son has a diagnosis of schizoaffective disorder. She says: ‘He would like to work. Whether his symptoms would allow him to do so is another question. There is always the risk of stress exacerbating his condition. Peter Costello and Kevin Andrews both show their ignorance of the real world and of public finance when they keep repeating that any job is better than welfare. If any job exacerbates your illness and increases dramatically the demands you put on the public purse, how can it be better than welfare for the individual or the community? What effect does such a statement have on the people who cannot work? His eligibility for the DSP will not change at the moment but what happens if he tries to work and then finds that he cannot? Of course, the chance of him being offered work is very slight but I cannot and will not tell him that. Logically, he should not even think about working because he would put the little income and the concessions that he currently receives in jeopardy. Apart from money, the conditions of Newstart are impossible for someone whose symptoms include some problems with organisation and for whom the stress of job interviews would be very great. The danger of symptoms being exacerbated is very real.

As this mother clearly points out, this package does nothing to help her son move from welfare to work; all it does is put at risk the existing benefits he has access to.

This package will not help any of the people currently on the disability support pension and it will not help any of those who would have qualified under the existing rules but who will now go onto the lower payment. Cutting income support for these vulnerable people and putting in place disincentives and a high effective marginal tax rate is not welfare reform; it simply ensures that people with disabilities will be locked into poverty traps from which they cannot escape and they will continue to be excluded from participating in the economic and social benefits available to the rest of the community.

Senator MOORE (Queensland) (10.47 pm)—I seek leave to incorporate speeches by Senator Sterle and Senator Carol Brown.

Leave granted.

Senator STERLE (Western Australia) (10.47 pm)—The incorporated speech read as follows—

I rise to speak against the government’s Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005.

With this bill the government is continuing their tradition of using irony in the title of their bills. Honourable Senators will recall that I have suggested that a better title for Howard government’s ‘WorkChoices’ bill would have been the ‘No Choices’ bill because that bill would make Australians sign an unfair contract or they won’t get the job. This bill before us today has nothing to do with moving Australians from welfare to work —it is about making the lives of thousands of
Australians less secure, and as such would be better called the 'Social Insecurity' bill.

If you listen to the Howard government’s rhetoric on this issue, you could be forgiven for thinking that the government appears to share Labor’s values about looking after people who are down on their luck and giving them a hand so they can get back on their feet. But if you look at the detail of this bill, you will see that they are insincere and mean spirited at best.

And if you look at the ‘Social Insecurity’ bill in relation to the ‘No Choices’ bill, you will see that this bill is simply a part of the Howard government’s plans to gut the Award system in Australia and undercut the working conditions that have been hard won by organised labour over the last century.

Social problems are more complex than Government Senators suggest. The left of politics has been ridiculed—and at times fairly—for thinking that all that needs to be done to solve social problems is to study them, throw money at it and hope they go away.

I am the first to agree that money is not—in and of itself—a solution to the barriers to employment that are often faced by the long-term unemployed, people with disabilities and single mothers. But just as throwing money at these barriers is not always the solution, taking money away is not the solution either. The National Centre for Social and Economic Modelling, or NATSEM, titled The distributional impact of the Welfare-to-Work reforms upon Australians with disabilities, is a damning indictment of just how extreme the reforms this government has proposed are. The NATSEM report shows that, because the Newstart allowance income test is much less generous than the disability support pension income test, and because its payments are also less than those of the DSP, the loss of take-home income for Australians with disabilities would be as high as $122 a week for single people.

The report also details that, for those with some private income, the potential losses are much greater. The take-home incomes of people with disabilities and private incomes of between $145 and $405 a week will fall by at least one-quarter. An Australian with a disability who works 15 hours a week for the minimum wage will earn $191 a week under the new system but will take home only $80 of this. The government will keep the other $111 through Newstart clawback and income tax. That means that the take-home income of this person working 15 hours a week will only be $288 a week under the new system. This is only $34 a week higher than the $254 a week that person receives under the current rules.

That means that the effective hourly rate for each of those 15 hours of paid work is $2.27 per hour. The Howard government seems to prefer playing up to stereotypes of the long term unemployed as drug-addled bludgers and single-mums as promiscuous teenage girls looking for an easy life than it does to find meaningful ways to address barriers to unemployment.

You can’t expect a person’s job prospects to improve just because you have taken bread off their table.

I am lucky enough to have never been on the dole in my life. But while I escaped the rounds of force redundancies that have been inflicted on so many blue-collar workers over the past twenty years, I did have extensive experience with workers who were made redundant while was an organiser with the TWU.

I can assure Senators opposite those whose only experience of industry is playing on the swings at daddy's farm while the farm manager made sure the sheep got shorn, that blue collar workers can suffer no greater indignity being made redundant.

While the government likes to wave about econometric modelling which assumes that all labour is portable—I can tell you that there is little prospect of a fifty year old truck driver who has been made redundant getting a job waiting in the hospitality industry. Blue collar workers who are made redundant in later life face very strong barriers to finding new employment and this bill does nothing to remove these barriers.

On the 2nd of December, after I accused the National Party of being Doormats, Senator Boswell told the Senate that had made a goose of myself. High praise indeed coming from the Cultural Attache for the Queensland National Party. Well, I have looked at Senator Boswell’s record and I have found some interesting statements he has made over the years.
On the 5th of May 1994, Senator Boswell informed the Senate that:

“Yesterday, one million Australians who are currently unemployed were offered a deal by the government which may help some, which will disadvantage the short-term unemployed, and which will miss the main point of any address on unemployment...”

Senator Boswell continued by saying that the unemployed:

“deserve a government initiative that will give them hope for a secure future in a job with all the social, family expectations that a regular job provides.”

Senator Boswell was of course speaking against the Keating government’s White Paper on Employment and Growth, otherwise known as ‘Working Nation.’

When Labor were last in office we created the Australian National Training Authority to coordinate and drive a national agenda with the states. In 1994, through the Working Nation program, Labor focused on re-engaging the long-term unemployed and on lifting the skills level of the nation.

With ‘Working Nation’, Labor invented the concept of mutual obligation. Unlike the Howard government, we did not confine the concept of mutual obligation to the unemployed – we made it apply to employers, unions and government also.

With ‘Working Nation’, Labor said to the business community: ‘We’re prepared to invest in getting people skilled and back to work, but we also require you to pull your weight, to employ some of these people and give them an opportunity in the workplace.’

Labor’s Working Nation offered real solutions to unemployment. We combined support for the long-term unemployed; considerable increases in funding for training and retraining; practical support for employers; and development initiatives designed to improve economically depressed regions.

These initiatives were hugely successful. When Labor gained office in 1983 there were fewer than 35,000 structured training places. By 1996 Labor had almost trebled them: 60,000 apprenticeships and 36,500 traineeships.

All the Howard government has done is axe the ‘Working Nation’ program and introduce this ‘Social Insecurity’ bill.

Through you, Mr Acting Deputy President, I ask: Can Senator Boswell put his hand on his heart and say that this ‘Social Insecurity’ bill is the sort of program that he had in mind when he was busy putting the boots into ‘Working Nation?’

I suspect he can’t.

I suspect that Senator Boswell knows that the Howard government is not a government that builds skills; it is a government that deskills. I suspect that Senator Boswell knows that the skills crisis that we are facing is entirely of the government’s making.

And instead of creating a program that trains the long-term unemployed to cash-in on the resources boom we are enjoying, the Howard government’s only solution is to import labour.

What sort of legacy are we leaving our kids when instead of training unemployed Australians to work in Australian jobs, we are importing skills from overseas?

I would welcome the minister explaining to the Senate why it is a good thing to put families of Australians with disabilities under financial pressure, to cut their weekly budgets and take bread from their tables. But so far I have not heard anyone speaking on behalf of this government explain why taking the money out of the pockets of people who are already doing it hard helps them get a job. I suspect I never will.

Australia needs real welfare reform. It does not need some sleazy slight-of-hand by a government who is dumping people from one welfare payment to a lower welfare payment and calling it reform.

Australians might not like bludgers, but they like even less gutless Spivs who kick people when they are down. Australians look out for each other when they are down on their luck and they will not like this government taking the bread off people’s tables and having the hide to say that this will magically make them ready to work.
Labor believes that those who work should work, but Labor knows that this 'Social Insecurity' bill does not tackle the reason someone isn’t working—it just kicks them when they are down. Australians will not be fooled by the government’s so-called Welfare to Work package. They will see it for what it is. They will know that the package is not about jobs but about reducing government expenditure.

Senator CAROL BROWN (Tasmania) (10.47 pm)—The incorporated speech read as follows—


I must say that my first three months in this Chamber have been remarkable—remarkable for one thing: the scale of the extreme attacks on Australian society being waged by this government.

Increasingly, Labor is the party that fights to retain a higher tide for social protection.

This Government is materialistic, shallow and economically driven for economic means alone.

It is not people-centred, altruistic or focused on the human needs of all Australians.

This Government’s extremism is about extending the market’s tentacles to every corner of human life.

Its focus is the market, and ‘good policy’ is seen as the side effect of this economic crusade.

In contrast, Labor fights for the retention of the social and communal institutions, rights and protections afforded to all, but especially those in need—Labor places good policy along side strong economic management.

They are twin aims.

Labor understands that to ‘assume’ the job is being done on policy is never enough.

You cannot leave social policy for the market to determine as a by-product of economic means and ends.

In the past 3 months we’ve seen outrageous abuses of parliamentary process by this Government.

We’ve seen 5 Bills gagged, guillotined and rammed through the Senate.

To pave the way for the sale of Telstra one day was allowed in the Senate Committee.

We’ve seen the extreme WorkChoices reforms—which were also gagged and guillotined - and the far reaching Anti terror laws.

Now before us we have this contentious Welfare to Work legislation. All are major reforms, there is no doubt and, with the exception of the anti-terror laws, all are ideologically driven, extreme and substantively unjustified.

There’s been a paucity of logical and rational argument to support the changes advanced by this government in recent months.

There’s been a lot of rhetoric, a lot of spin. There’s been a lot of clouding and muddying of the real issues by Senator Abetz and others in this chamber.

But no amount of cute badging, clever PR or smart slogans of which “Welfare to Work” is one such slogan, can disguise the real effect of this bill.

The ‘Welfare to Work’ bill is harsh; this bill will put the vast majority of people with a disability or on a sole pension on to the dole.

But other than saving the Government money in the long run, it has little purpose and little in common with its stated aims.


Not only have we seen in this Chamber today the Government moving a motion to gag the debate on this bill but this outrage is on top of the already limited examination as highlighted by the Senate dissenting report into the provisions of these bills, and I quote:

“... we believe the extremely short period of time the Committee has been given to hold an inquiry into these bills is unacceptable. The time frame was in fact so short that the usual Senate processes for advertising for submissions could not be undertaken, and consequently the Committee had to rely on invitation and internet advertising. Within two weeks, the Committee has been re-
required to dissect and consider the detail of a long and complex piece of legislation, process and read over 60 submissions, arrange and hear four days of evidence from government departments and concerned organisations, and produce a report to be tabled in the Senate. The Committee’s report will be tabled in the Senate only five days after evidence was taken in the last of the public hearings into these changes, which provides very little opportunity for the evidence to be fully considered.”

This bill is an example of bad policy being rashly and quickly rammed through parliament by an arrogant government.

It can only do this because it has control of both the House of Representatives and the Senate.

Far from their stated aims, the Welfare to Work bills do not create a viable mechanism to help those on welfare who would like to find employment.

No amount of backroom tinkering by Government backbenchers can change that.

The brutal truth of these laws is that well over 200,000 Australians will be financially worse off under them.

And of those who do get jobs, many may actually end up poorer than they were before because the Government will be taking more from them than it does now.

It’s disgraceful.

This package is called ‘welfare to work’, but all this reform does in reality is dump swathes of people from one welfare payment on to a lower welfare payment.

The real question for the Senate, then, as we debate this bill is: How does dumping single parents and people with a disability onto a Newstart Allowance help them get a job? That’s the question this Government needs to answer.

It’s a question it failed to answer during the Senate Community Affairs Legislation Committee hearings, and it’s the question that academics, social welfare groups and all the other political parties in this parliament are still asking today.

Let’s look at what is proposed by the legislation in front of us: From July next year, all people who apply for a Disability Support Pension will be assessed under an extreme new capacity test.

This will have the effect of restricting access to the Disability Support Pension by reducing the ‘work incapacity’ test – the number of hours work a person must be capable of performing - from 30 hours a week, to 15 hours a week to qualify.

Similarly, and harshly, those who apply or who have applied for the Disability Support Pension between 10 May this year (2005) and 1 July next year (2006) will be reassessed under this new capacity test.

If the test determines you are able to work 15 hours a week, you’ll be transferred to Newstart Allowance, which will deliver a cut of over $80 per fortnight to your income.

For single parents the story is just as bad.

Under this package, a range of changes will be made to the eligibility requirements for the Parenting Payment.

An activity test will be applied to the Parenting Payment for single parents with a youngest child aged 6 - 7, and to all existing recipients staying on at 1 July 2006, with a child aged 6 or over.

This means single parents must look for work when their children have turned six.

Then, once their children have turned eight, they will be forced off the Parenting Payment and put on to Newstart Allowance—otherwise known as the ‘dole’.

The assessment of what constitutes ‘suitable work’ will also be weakened.

For example, where the definition of “work” under subsection 94(5) of the Social Security Act 1991 (SSA) currently specifies: o at award wages or above; Under WorkChoices that will change to minimum terms and conditions under the Australian Fair Pay and Conditions Standard.

On another front, ‘breaching’ or penalty rules will be modified to provide, among other things, an 8 week non-payment period for failing to meet the activity test or for breaching activity requirements 3 times in one 12 month period, An 8 week penalty will also apply for people leaving a job voluntarily, being sacked for misconduct, not taking up a ‘suitable’ job offer, or failing to participate in an approved program of work.

Why? Consider this: The Disability Support Pension and the Parenting Payment Single allowance
are paid at higher rates than the Newstart Allowance.
$508 per fortnight for the Disability Support Pension compared to $416 per fortnight on the Newstart Allowance.
$92 a fortnight less.
The income tests for the Disability Support Pension and the Parenting Payment Single are more generous to the recipient than for those receiving a Newstart Allowance.
The ‘Free area’ – that is the amount you can earn before your benefits are affected – and the taper rate – that is the rate of reduction relative to the additional income you earn – is less severe.
For example - under the Disability Support Pension income test for a single person, you can earn $124 per fortnight before your payments are reduced, and then they are reduced at the rate of 40 cents in the dollar until they cut out completely.
Whereas under changes to the Newstart Allowance in this package, payments will begin reducing once recipients earn more than $62, and will reduce at a rate of 50 cents in the dollar between $63 and $250 and at 60 cents in the dollar thereafter.
Similarly the Pensioner Education Supplement is available on the Disability Support Pension but not on the Newstart Allowance.
Currently the supplement provides $62.40 per fortnight for full-time study and $31.20 per fortnight for part-time study when working-age pension recipients undertake approved training.
But this supplement is not payable to Newstart Allowance recipients undertaking the same course of study.
How ironic to be saying to people who are going to be dumped onto the Newstart Allowance, we’ll take away your training support. That’s sure to help them get the skills they need to get a job.
These changes maybe a recipe for savings for the Government, but they will produce hardship for pensioners and sole parents in this country.
Let’s look at the figures: The Government has already admitted that hundreds of thousands of Australians will be worse off under these changes.
Rough estimates suggest: 60,000 people with a disability, 77,000 single parents, and let’s not forget the, at least, 77,000 children of these parents who will also be affected.
And this is before you begin to consider those who will lose out in the future, by not being eligible to regain their payment if they go off it temporarily.
Despite recent tinkering, the small changes proposed to this bill will never make a dent in these sort of numbers.
Then there’s the issue of Effective Marginal Tax Rates to contend with.
The National Centre for Social and Economic Modelling (NATSEM) recently undertook modelling research on these changes.
I remind you all that NATSEM is an organisation that the Prime Minister, John Howard has described as respected”, “objective”, and “independent”.
According to NATSEM’s own research, if a person with a disability works 15 hours a week for the minimum wage, they will keep only a quarter of what they earn, while the Prime Minister claims back three quarters.
That’s because the Disability Support Pension is not taxable but Newstart Allowance is.
A person in these circumstances would be $122 - per week - worse off, for moving into work under these arrangements than if they did so in the current environment.
This would mean working for $2.27 per hour. How fair is that? Similarly, if a single parent with one child works fifteen hours a week, they will only keep $81 of their earnings, while John Howard claws $114 back.
This means the parent is around $91 a week worse off than if they moved to work under the current arrangements for single parents.
In real terms, it also means the Howard Government is asking single parents in these circumstances to work for only $3.88 per hour.
In working 15 hours a week they are only $58 better off than someone who is not working at all.
And that’s before they cover the costs of working - the travel, the petrol, the clothing, and the child care expenses – and that is assuming they can even secure child care placements for their children. As Senators would understand, that’s far from an easy task.

Given these other costs of work, it’s not unimaginable to think that some parents in this scenario could end up paying for the privilege of working. What kind of incentive is that for finding a job?

Much fanfare surrounded the Prime Minister’s promise that single parents would not have to take jobs that resulted in a negligible or negative financial gain once the costs of childcare were taken into consideration.

But there’s nothing in this bill about that. We are told it will be in guidelines. I truly hope it will be.

But if it’s not, many parents and children will be marshalled to join the army of working poor this government seems determined to create in Australia.

Let’s be honest here – it’s a simple equation. Less income for Mum or Dad equals less food, clothing and shelter for Australian children.

But, at this stage Mr Howard’s guarantee is not there, and with his track record of core and ‘non-core’ promises, Australian families should be very concerned.

In considering this bill, I spoke to my family, friends and people from the community – many of whom have children.

It brought home to me the difficulty many families are already facing under the existing system in Tasmania and the likely outcomes under these extreme proposals.

It is expressed well in the dissenting report of the Community Affairs Legislation Committee’s examination of the Welfare to Work Bills.

The dissenting Senators argued: “Not only is it an incompetent legislative package that fails in its stated aims, but it introduces perverse incentives that will actively discourage people from moving away from welfare payments and into paid employment.” The Howard Government should address these disincentives to work, if it is serious about delivering on the intent of the “welfare to work” slogan.

One simple method it could have considered is the Welfare to Work Tax Bonus which Labor proposed at the last Budget.

This bonus would have provided a real incentive to get back in to work – a financial reward.

Under the Welfare to Work Tax Bonus, those who earned less than $20,000 per annum and who moved from welfare to work would have received an increase in the tax-free-threshold to $10,000.

An extra $4000 buffer before they started paying tax.

That’s a real incentive to leave welfare in favour of work, but what we have here is far from it.

It's no secret that Labor supports the increased participation of welfare recipients in the economic and social mainstream of Australian society.

Everyone in Australia benefits when this happens. Personally, I believe there are powerful motivating and liberating forces that enter the life of an unemployed person when they get a job, and that all should be offered that experience in our society.

It's good for individuals' self esteem and it's good for the country.

It is Labor’s belief that with more than 1 million Australians on welfare, the nation caught in the grip of a skills crisis and with the demographic threat of an ageing population, our government should be investing in the training and educational opportunities of Australians on welfare.

It’s common sense.

You provide an incentive to enter the labour market when you provide the training and skills which allow people to see a career path.

You find someone a job when you give them access to a network of trainers and educators with links to businesses and agencies that seek to employ skilled and trained staff.

But where are the increased training and education packages to go with the Government’s Welfare to Work changes.
Where is the statement of intent which says getting a job starts with an education and with skills?
For that matter where is the real increase in child care funding to go with these moves?
And where are the taxation incentives to encourage welfare recipients to work?
They are not there. They are not there because this Government doesn’t really want to help people off benefits into real work — it just wants to save money and kill off what it calls the ‘welfare state’.

It’s another example of this out of touch and ideologically driven government at work.
And there is no doubt people will be worse off.

As ACOSS has suggested:
“If the Welfare to Work policy announced in the Federal Budget is passed by the Parliament later this year, our analysis of official figures suggests that 176, 000 social security recipients will be financially worse off in the three years after the changes start, in July 2006. This is due to unprecedented cuts in future social security payments…”

“But it’s not just ACOSS saying this — even a Government backbencher has spoken out:
As WA Liberal MP Judy Moylan put it in her second reading speech to the House of Representatives: “In my view, we have lost a golden opportunity to reform welfare in a meaningful way and put in place a package of measures that would strongly support not just the incentives for employers but true and real incentives for employees with additional caring responsibilities and disabilities to be supported in their efforts to access the workplace. I find this cut in income support really very disturbing on the eve of the delivery of tax cuts for families earning more than $1,200 a week. We will all be the poorer if this legislation goes through.”

I couldn’t agree more.

Moving people from welfare to work requires more than cute slogans and spin.

It requires a government to create ‘clever’ solutions and real incentives but beyond this it requires a government to display continued kindness to the most vulnerable people in our community.

In slashing benefits and providing disincentives for people to make the transition to work, this policy is neither clever, nor kind.
I oppose this bill in the strongest possible way and urge all Senators to do the same.

Senator FIELDING (Victoria—Leader of the Family First Party) (10.47 pm)—Let me make it clear where Family First stands. Family First does not believe in the welfare state; Family First believes that those people on welfare who can work should work and that those who are caring for their children should be parents first and workers second.
The Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005 and the Family and Community Services Legislation Amendment (Welfare to Work) Bill 2005 are all about trying to get the balance between personal responsibility and community obligations right. The bills deal with how to help people receiving government welfare benefits change from receiving income support to earning at least part of their income in the paid work force. Most of the evidence received by the Senate Community Affairs Legislation Committee inquiry agreed this was a good goal. Most agreed that it was important for a family to have at least one parent with a paid job. The difficulty is finding the right path to reach the goal of employment.

My comments will focus on the effect of the proposed changes on parents, particularly sole parents. The evidence shows that children in families without a job suffer worse health than other children, that they have higher mortality rates and that they can expect to have a lower than average income when they are adults. Eighteen per cent of
children live in a household where there is no parent with a job. That adds up to over 660,000 children across Australia. More than 60 per cent of these children are in single-parent households. The Brotherhood of St Laurence released a report today which states that children in poorer families are more likely to have poor physical growth, poor nutrition, poorer performance at school and physical and mental health problems. Unemployment for adults is associated with lower levels of self-esteem, more health problems, social isolation and, obviously, lower levels of income. So, quite apart from the government’s concerns over labour force participation rates and the cost of welfare, we know that there is a serious problem to address for both children and their parents.

Dealing with this serious problem is difficult because, the moment you change the welfare system, there are flow-on consequences. When you add that to people’s natural resistance to change, it is hard to see through the fog of debate to find a just, equitable and workable solution. It is important then to find a clear set of principles to help find a way through the complexity of this issue. Family First believes that people with children are parents first and workers second, but this has to be balanced with an obligation to the community. People receiving welfare payments should be obliged to try to find work if they can. Australia’s taxpayers are more than willing to help support those who have fallen on hard times but should not be expected to continue to support those who have the opportunity to work.

I do not want to give the impression that these decisions are easy. The decisions we make in this place affect people’s day-to-day lives and there is always the danger that, in the isolation of Parliament House, we will get it wrong and that we will forget the reality of that impact. I am particularly concerned about the impact of this new legislation on sole parents. From 1 July 2006, new applicants for parenting payment single will be switched to Newstart allowance when their youngest child turns eight. This results in an immediate $29 cut in income. I can only imagine how difficult it must be to be a sole parent. Much as we love our kids, they can be really hard work at times, and I have been lucky enough to share parenting with my wife, Susan. For sole parents, there is often no-one to help on those long nights with a sick child or just trying to get through the daily routine of keeping children bathed, dressed, read to and settled to sleep.

There is also a harsh financial reality for sole parents on income support. Families living on the margin do not have much room to move before they fall over the edge of financial or even personal disaster. The Welfare to Work changes should recognise this difficulty and encourage people to work and to move away from their marginal position, not make their life more difficult by cutting their income. Dropping the amount paid to parents, which applies whether they can find a job or not, is not reasonable.

When I asked the Department of Employment and Workplace Relations whether it had done research on how well single parents could cope with a cut in their benefits, the department said it had not. Twenty-nine dollars a week is neither here nor there for those of us in the Senate. But in many households, it is the difference between being able to have enough food or not. It is the public transport fares, the phone bill or the electricity bill a family will not be able to pay for. That is why Family First is proposing an amendment that would ensure that the value of the Newstart allowance for single parents equals parenting payment single.

In addition, I would have liked to have seen that those on Newstart allowance who cannot, despite their best efforts, find a job,
would be further encouraged to undertake voluntary work in the meantime. Some areas, particularly regional areas, will have limited work opportunities for parents looking for a job under the Welfare to Work proposals. Paid work would still remain the primary objective, but parents moving from welfare to work may find that voluntary work helps them obtain paid work. Voluntary work can also help self-esteem, help the development of skills and help to combat social isolation. Family First believes that those people receiving some form of income support do have a responsibility to taxpayers to find work if they can. But as a community we also have the obligation to ensure we help the transition from welfare to work. I support the general direction of the changes proposed by the government, but I would prefer that payments for parents were not cut.

Senator BARNETT (Tasmania) (10.54 pm)—I speak in favour of the government’s Welfare to Work package. I want to acknowledge the work of the chairman, Senator Gary Humphries, and my colleague Senator Judith Adams in the recent inquiry and note that the government senators’ suggestions have been taken up by the government in the legislation package before us. I want to speak in favour of the bill and thank Minister Andrews and the Prime Minister for their leadership and courage.

I note that in the last 9½ years economic growth has reached an unparalleled level, with 1.7 million new jobs created and unemployment at a 29-year low. But it is both inappropriate and unacceptable to have 2.5 million, or 20 per cent of working age Australians, on income support. Of these, more than 1.3 million people are in receipt of parenting payment or the disability support pension and have few, if any, participation requirements. It is also unacceptable, as I said in my speech in favour of the Work Choices legislation, to have 700,000 children in Australia growing up in jobless households, where their mother or father may be from one, two or three generations of Australians who do not know what it is like to have a job, let alone steady employment and a regular income.

As I spoke in favour of the Work Choices legislation, which is analogous to this debate that we are having today, I referred to the fact that the best form of welfare is a job. Tony Blair, the current Labour Prime Minister of the United Kingdom, said to the Trades Union Congress back in 1997 that ‘fairness starts with the chance of a job’. The challenge of implementing welfare reform is to get the right balance between obligations and support. It is not unreasonable to expect those people who are available for and capable of work to participate in the work force. The economic and social arguments for such reform are compelling and show that reform is necessary. It is a matter of recognising people’s abilities and capabilities rather than focusing, as it seems the opposition is doing, on their disabilities and incapacities. It is a matter of looking at and tackling unemployment rather than just accepting as a fait accompli joblessness and the cost of that to modern society. It is a matter of focusing on the dignity and value that comes from participation in the work force rather than accepting as a done deal the despair and poverty that result from long-term welfare.

I want to highlight the fact that this is an investment of $3.6 billion to get people from welfare into work. The package recognises that every Australian of working age has the right and deserves the opportunity to participate in Australia’s prosperity. Some would think just from reading the media and listening to the opposition that this $3.6 billion investment is a cut in government payments to the welfare sector. At a national level we are investing more than $2 billion in employment services in 2006-07 to help people
prepare for and find work. In my home state of Tasmania some $74-odd million will be invested to increase work participation and ensure that more Tasmanians have the opportunity to benefit from strong economic growth. The package includes measures to increase the participation of the very long term unemployed, and of course this is particularly important in my home state of Tasmania.

I want to advise in the time I have available that there are three key reasons for the reforms. The first is that the best form of welfare is a job, which is something that does not seem to be acceptable to the opposition; the second is that there are unacceptably high and growing levels of welfare dependency in this country; and the third relates to the ageing of Australia’s population and the decrease, relatively speaking, in people entering the work force.

With regard to the best form of welfare being a job: yes, it is. In a recent study, three per cent of the waged households were in poverty, compared to some 31 per cent of those relying on welfare. There are a number of studies that confirm that it is better to be in that position than to be on welfare, in terms of getting out of poverty and in terms of the high levels of dependency. There are 2.6 million working age Australians on income support, of whom only 15 per cent are required to actively search for a job. That is not adequate; it is not good enough. Passive welfare payments with no obligations lock people out of participating in Australia’s prosperity and condemn them to a lifetime of poverty. In respect of the ageing of Australia’s population: yes, Australia’s unemployment rate is at an all-time low, but there is now a shortage of workers, not a shortage of jobs.

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order! It being 11 o’clock I shall put the question on the second reading amendment moved by Senator Wong to the Employment and Workplace Relations Legislation Amendment (Welfare to Work and Other Measures) Bill 2005.

Question put.
The Senate divided. [11.04 pm]
(The President—Senator the Hon. Paul Calvert)

Ayes…………… 32
Noes…………… 35
Majority……… 3

AYES
Allison, L.F. Bishop, T.M. Brown, C.L. 
Carr, K.J. Evans, C.V. Forshaw, M.G. 
Hurley, A. Ludwig, J.W. 
Marshall, G. McLucas, J.E. 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. 
Chapman, H.G.P. Coonan, H.L. Ellison, C.M. 
Fierravanti-Wells, C. Heffernan, W. Johnston, D. 
Kemp, C.R. Macdonald, I. Mason, B.J. 
Nash, F. Patterson, K.C. Ronaldson, M. 
Scullion, N.G. 

CHAMBER
Question negatived.

Original question put:
That the bills be now read a second time.

The Senate divided. [11.09 pm]
(The President—Senator the Hon. Paul Calvert)

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

AYES
Abetz, E.
Barnett, G.
Brandis, G.H.
Chapman, H.G.P.
Coonan, H.L.
Ellison, C.M.
Fielding, S.
Humphries, G.
Joyce, B.
Lightfoot, P.R.
Macdonald, J.A.L.
McGauran, J.J.J. *
Parry, S.
Payne, M.A.
Santoro, S.
Troeth, J.M.
Vanstone, A.E.

NOES
Allison, L.F.
Bishop, T.M.
Brown, C.L.
Carr, K.J.
Evans, C.V.
Forsshaw, M.G.
Hurley, A.
Ludwig, J.W.
Marshall, G.

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

Ferris, J.M.
Hill, R.M.
Minchin, N.H.
Conroy, S.M.

Hutchins, S.P.
Campbell, I.G.
Campbell, I.G.

*N denotes teller

Question agreed to.

Bills read a second time.

ADJOURNMENT

The PRESIDENT—Order! It being 11.12 pm, I propose the question:
That the Senate do now adjourn.

Mental Health Services

Senator NASH (New South Wales) (11.13 pm)—I rise tonight to talk about a young lady I met recently. We talk about a lot of issues of national importance in this place, issues that we debate in the national interest, but tonight I would like to talk about a person who I think is a remarkable young Australian. Recently I was privileged to attend a fundraiser for the White Wreath Association in Yass. The White Wreath Association is a non-denominational, non-political and antidiscriminatory body supporting people who have been directly affected by suicide and those who are affected by mental illness and disorders. I was particularly moved to take part in this fundraiser because the driving force behind the event was a 12-year-old girl, Kyra Hansen, a year 5 student at Mount Carmel School in Yass who in my view is wise beyond her years and someone we could learn a lot from.

Kyra’s uncle on her father’s side committed suicide four years ago. Kyra was close to her uncle and wanted to do something to
raise the profile of the issue, and she did. This wonderful young lady, who as I said earlier is just 12, came up with the idea of a dance performance to raise funds for mental health awareness. She gathered a group of her school friends, choreographed the routines and together they rehearsed for six to seven weeks during their school lunchtimes. They dubbed it the Funky Fundraiser. Kyra and her fellow dancers Meg, Emma, Jamie, Tara, Erin-Louise, Casey, Monica, Heidi-May and Olivia raised almost $500 for the White Wreath Association, while at the same time bringing to light the issue of mental illness and the need for improved mental health services, particularly in rural and regional areas such as Yass. I can only hope that others might experience the same type of thing that I did that night: in a small hall in a small town in regional New South Wales, these young women were doing so much to promote something that they believed was important and where they believed they could make a difference. Such social awareness at such a young age is very encouraging and great to see among our young people in rural areas.

I have long been aware of the need to improve mental health support services in the bush, both for sufferers and for their carers and families. I have spoken in this place on a number of occasions about the importance of continued financial support for mental health initiatives. The federal government treat mental illness as a national health priority, and so we should. Substantial funding has been and is being made available in a number of areas, including significant contributions to the National Mental Health Strategy; $69 million to help combat mental health problems among young Australians, particularly problems associated with drug and alcohol abuse; $263 million for the Better Outcomes in Mental Health Care program, training 4,000 GPs in best practice treatment of mental illness; along with approximately $10 million provided by the government for suicide prevention each year. But, importantly, this government realises there is still more work to do, particularly in rural and regional Australia, in terms of support services aimed at both prevention and treatment of mental illness.

As a resident of a regional area I realise mental illness, particularly depression, in country areas is related to a variety of factors, some of them unique to rural life. For example, financial problems, isolation, and drug and alcohol use can all contribute to depression in country areas which in some cases can sadly lead to suicide—as in the case of Kyra’s uncle—something that has a devastating impact on entire communities. Earlier this year, Professor Ian Hickie, clinical adviser to the national depression initiative beyondblue, said that, while research indicates mental illness rates in rural areas are not very different to the general population, suicide rates are higher in the bush. He said:

We don’t necessarily see more mental disorders but we see worse outcomes, the worst of all being suicide amongst young, rural men.

This nation is only now emerging from one of the worst droughts in living memory, but the social and economic stresses it has created will linger for some time yet as the farming sector slowly begins to recover. We need to ensure that there are adequate support structures in place to assist people faced with these sorts of stresses and, in doing so, hopefully we can circumvent the development of mental illnesses like depression.

But as I have mentioned, it is not only prevention services that need attention; we must also focus on the treatment. The lack of health services in country areas to deal with mental illness when cases do arise needs to be addressed. More has to be done to ensure
those living in rural locations have access to the same level of care and treatment as those living in the city, and it is important that these treatment outcomes reflect the needs of the rural population.

The unique demands of rural and remote mental health services were the centre of discussions at the 10th New South Wales Rural Mental Health Conference last month in Tweed Heads. I am advised that conference acknowledged the multifaceted approach needed when addressing mental health in rural and regional areas and the need for mental health workers in rural areas to be multiskilled across a variety of areas. But, while the need for improved support services is obvious, it is equally important that the community is educated and aware of the telltale signs of mental illnesses like depression and people are willing to talk openly about it with family and friends. We need to eliminate the stigma attached to the affliction if we are to make serious inroads into the problem, and I commend to this place Kyra Hansen and her family and friends for their efforts in raising such awareness through the Funky Fundraiser at Yass.

Statistics show us that many Australians will be touched by mental illness. For instance, one in five people in Australia will experience depression at some point in their lives. The work being done by groups like the White Wreath Association is so vital to raising awareness of the need to address mental health and prevent the devastating impact of mental illness on families and townships around Australia. We need to give them the necessary support and encouragement in their ongoing quest to reduce suicide rates around the country.

While state governments are responsible for specialist public mental health services, I believe we need to look at all governments and all the roles they play in addressing the matter. This government has provided and will continue to provide substantial funding for mental health initiatives. This government acknowledges the issues facing rural communities in terms of mental health: it has been a national health priority for close to a decade now. We, not just those of us in this place but also those in the other place, as well as our state political colleagues, all need to work towards a common goal—decreasing the incidence of mental illness and suicide not only in the bush but throughout the entire country. Our task now is to maintain the momentum building around specialised programs and bring mental health support to acceptable levels right across Australia.

Our task is to listen to the voices of people like Kyra Hansen, a 12-year-old girl who had the vision and belief that she could do something to make a difference. She had that belief and she made it happen. To see those young girls up on the stage in this very small, very old cinema in Yass, believing that they could make a difference and make a change was really something that we all should have the opportunity to see at some point. I commend Kyra and her friends to you and I can only congratulate them for what they have brought to this debate and for what they have shown can be achieved with real belief.

Anti-Terrorism Bill (No. 2) 2005

Senator FAULKNER (New South Wales) (11.22 pm)—This afternoon the government used their Senate majority to block debate on the second reading of the Anti-Terrorism Bill (No. 2) 2005. It is chillingly ironic that the antiterrorism bill, with its potential to infringe the freedom of speech of many in our community, is itself the subject of a gag. It was legislation that ought to have been exposed to proper scrutiny. These are bad laws written for bad reasons. The gov-
ernment acknowledge that these laws are flawed. They have admitted that they need to be reviewed. But, rather than allow proper legislative process with adequate scrutiny and amendments, the government propose passing the laws first and fixing them later. A responsible government, one might think, would get the laws right before they got them passed. A responsible government might try to fix the problems in the laws before innocent people’s rights and liberties are unnecessarily infringed.

Just how flawed are these laws? To start off with, a government controlled and chaired Senate committee inquiry into the antiterrorism bill made 52 unfavourable recommendations, one for every week of the year. And that is after a farcically abbreviated inquiry designed to prevent genuine scrutiny of the bill. I will not go through each and every one of those recommendations, but let me draw your attention, Mr President, to a few key issues. First of all, I draw your attention to schedule 4, control orders and preventative detention orders. These orders are designed to make it possible for people to be put under house arrest or in actual detention when no charge has been proved or even brought against them. After the public outcry when an early draft of this bill was made public by Jon Stanhope, the ACT Chief Minister, some judicial review of these orders was included in the bill. But those changes remain inadequate. Serious questions remain about the constitutional validity of these provisions and serious questions remain about the necessity of these provisions when existing powers of arrest for broadly defined preparatory terrorist offences, combined with ASIO’s powers of questioning and detention, provide alternatives with less impact on civil liberties.

I would also like to draw your attention to schedule 7, which relates to sedition. Seditious crime is an archaic and anachronistic offence. It has no place on the modern statute book. Our federal criminal law already provides an avenue for prosecuting those who incite others to crime. The sedition provisions in the antiterrorism bill in part duplicate the existing law and in part go dangerously beyond it. It will be possible for a person to be prosecuted even if the conduct they urge is not a crime. The Howard government cannot sugar-coat the violation of freedom of speech and freedom of expression in these sedition provisions of the bill by including a new offence of incitement to inter-group violence. In principle this is a welcome protection for members of the Australian community suffering vilification and violence. Why not, then, put it where it belongs—in anti-vilification law?

It is a new development for John Howard’s government to show concern for protecting the rights of the marginalised and the minorities in our community. It was, after all, Mr Howard whose response to Pauline Hanson’s inflammatory, ignorant and racist comments was a mild, ‘You may not agree with everything that is said but you defend the right of people to participate.’ It was Mr Howard’s government that whipped up anti-refugee feeling with false stories about kids overboard and false speculation about al-Qaeda terrorists on asylum seeker boats. Under John Howard, as former Liberal Prime Minister Malcolm Fraser said last week, the Liberal Party ‘has become a party of fear and reaction.’ It has allowed—and some would say promoted—race and religion to be part of today’s agenda.

The narrow provisions of the antiterrorism bill will do nothing to protect those in real danger of vilification and racially and religiously motivated violence in Australia. But they will allow the government to pretend that the revival of sedition in our modern legal code is not a massively retrograde step. The good-faith defences in the antiterrorism
bill are limited and inadequate, and minor changes to these defences in recent days do little to blunt the effect of the sedition provisions in these laws. What is the government proposal to deal with the massive problems with these new sedition laws? They will review the legislation some time into the future. That is right: they will pass legislation that they know that members of their own government have told them is flawed, badly flawed, and then they will fix it later. If legislation is flawed, it ought to be fixed. And if it cannot be fixed, it should not be passed.

That is the responsible attitude. That is the response of a responsible government, a responsible Prime Minister, a responsible Attorney-General. That is the approach that they would take; but then a responsible government would not take the nation to war based on a lie. A responsible Prime Minister would not deny the connection between his own grievous error and the increased danger to Australians and Australian interests from terrorism, and a responsible Attorney-General would not allow shoddy laws to be put to the parliament for cheap political effect. What a pity that Australia does not have such a government, such a Prime Minister or such an Attorney-General.

Instead, Australia has Mr Howard and Mr Howard’s government. Australia has Philip Ruddock fresh from his time as minister for immigration, where he got plenty of practice locking people up or making people disappear. Having done John Howard’s dirty work at DIMIA, from lies about ‘children overboard’ to more than 200 unjustified and illegal detentions and deportations, now Minister Ruddock is doing John Howard’s bidding in a new portfolio, the Attorney-General’s portfolio. Once a self-styled moderate, Philip Ruddock has become the pallid poster boy for the inhumane face of the Howard government’s policies. He oversaw the development of a culture in DIMIA that prioritised detention and deportation over accuracy and fairness. I just ask this: what kind of culture will Philip Ruddock oversee when these laws are passed?

**Sea Bottom Trawling**

Senator SIEWERT (Western Australia) (11.31 pm)—On 11 October of this year the Senate passed a resolution calling for the development and implementation of an effective, legally binding governance framework to protect deep sea biodiversity in the high seas area and to conserve and manage bottom fisheries of the high seas. I have spoken on this issue several times and, again, on November 9, at a time when the United Nations General Assembly was considering the issue of how to protect the life of the deep ocean. In the light of the radically destructive practice of bottom trawling, which is becoming more prevalent, I touched on the subject of the global moratorium that more than a thousand marine scientists from 69 countries called for in February 2004. At this time the minister for fisheries, Senator Ian Macdonald, asked me what I would do about enforcement of such a moratorium, and it is on this subject that I would like to speak tonight, by way of answer.

The general assembly fell short of calling for a moratorium at its November meeting, instead reaffirming its call for nations to take urgent action to protect deep sea corals, seamounts and hydrothermal vent ecosystems from destruction by bottom trawl fishing. We welcome this call for urgent action, but the UN called for urgent action in 2004 and 12 months have elapsed with very little progress. The Director General of IUCN recently said:

... deep sea bottom trawling is an act of insanity and should become subject to prosecution.

I have described previously the destructive impacts of this practice, but just imagine for a moment the Great Barrier Reef or Ningaloo
being violated in this way. It is just that these reefs to which I refer are out of sight and out of mind.

I have no doubt that a moratorium will eventually be declared because this practice is economically and ecologically self-defeating. The industry is visibly destroying the asset base that it depends upon, and ecological collapses are following hard on the heels of the trawlers. In fisheries considered to be well managed off Australia, New Zealand and Namibia, orange roughy have been fished down to 15 to 30 per cent of the original biomass within five to ten years. Our technological reach is simply too powerful. Professor Callum Roberts notes that:

We must consider deep-sea stocks as non-renewable resources.

Deep sea industrial fishing is mining ...

While this practice continues unregulated around the world, we are losing the spawning grounds that will be essential if the world’s oceans are to ever recover from the onslaught of commercial fishing which is devastating more familiar fisheries. It is no secret that the world’s fisheries are in trouble. It makes no sense that a small handful of nations are venturing to the deep oceans seeking to exploit and destroy these hidden ecosystems without the world saying ‘enough is enough’.

We all know that most fishing operators know the sea better than anyone and seek to maintain the fish stocks which support their livelihoods. We have seen the relief evident in the government’s welcome fisheries buy-out package which will allow some parties to leave the industry with dignity, and the industry, by and large, is adapting and contributing to the move to genuinely sustainable fisheries in Australian waters. The relationship and feedback between social, economic and ecological sustainability is so clear in the fishing industry. This is precisely why a moratorium on deep sea trawling is so important. Without a legally binding and enforceable mechanism in place, the practice is expanding without regard to ecological limits.

Minister Macdonald asked about enforcement—and I take this question in good faith because this is one area in which the Australian government can claim to have made progress. I have read statements by Australian delegates to these conferences and will give credit where it is due: Australia is proving to be a positive influence. The minister asks: how does one enforce a ban on a practice on the international high seas which occurs out of sight, where flags of convenience are common and market forces are proving to be an engine of extinction?

The first thing to note is that the international law of the sea is already on our side. All signatories have an obligation to cooperate in the conservation and management of the living resources of the high seas. The second point is that the equipment used for deep sea trawling is distinctive, has no dual use and that fish caught in these trawls are disfigured by the pressure changes as they are brought to the surface. Each of these factors makes enforcement easier at a local level. A ban on landed catch of this type and on the sale of specialised trawl gear would be enforceable if the right kinds of multilateral agreements were in place. Thirdly, we do not face an entrenched industry with major economic interests at stake. Bottom trawling on the high seas accounts for much less than one per cent of the global fish catch, both by volume and value. We have options for regulation now which we will not have if the industry is allowed to expand unimpeded to new areas as current fishing grounds are destroyed.
I draw the government’s and the minister’s attention to the Wellington convention, which banned the practice of driftnet fishing in 1992. I am certain the minister is aware of this convention, the evidence of its success and the template it provides for proceeding with utmost urgency. With goodwill and persistence, these walls of death were banned from the open ocean, and no community benefited more than the fishing industry. Enforcement of such a ban on bottom trawling will not be easy, and complete enforcement may be impossible, but this is not an excuse not to try, because the alternative is the ruination of a resource which we barely comprehend and have no right to destroy. A significant crackdown that still misses some operators is vastly better than the lawless state of affairs that prevails today.

Once the political will for the moratorium is strong, history has shown—one on ozone, ocean floor mining, exploitation of Antarctica and driftnet fishing—that enforcement can be effective. A global moratorium where researchers are given the time they need to assess the practice will be easier to enforce than a patchwork of local and regional agreements that will be wide open to exploitation. In February and March 2006, the parties will come together again to debate the issue. I want to see the Australian government in the front row lending its considerable diplomatic influence to an outcome we can all be proud of. In November of this year, the French government announced it would support a global moratorium, stating that biodiversity continues to shrink due to too many parties to the Convention on Biological Diversity not putting their words into action. I hope the minister will consider making the government’s position on this issue clear as we move towards a moratorium that must come into force one day, either with foresight or regret.

Obesity

Senator BARNETT (Tasmania) (11.38 pm)—Tonight I stand to speak about a national health crisis facing Australia, and that is the obesity epidemic. I stand to speak to the outcomes of the National Obesity Forum held in Parliament House here last Friday, 2 December, and to acknowledge the wonderful support we have had from the organising committee for that forum, specifically from Associate Professor Ruth Colagiuri from the Australian Health Policy Institute at the University of Sydney, Professor Stephen Leeder from the Australian Health Policy Institute at the University of Sydney and Professor Jennie Brand-Miller, also from the University of Sydney, former president of the Nutrition Society of Australia and well-known author who has been published widely.

The obesity rates in Australia for adults are now 2.5 times higher than they were in 1980, with over 60 per cent of adults currently classified as overweight or obese. By 2020, it is estimated that 9.6 million adult Australians will be overweight or obese.

In children, the obesity crisis is even worse, with rates tripling in just over 10 years.

I seek leave to incorporate the rest of my speech in Hansard.

Leave granted.

The remainder of the speech read as follows—

In 1995, 20% of all Australians boys and 22% of girls were classified as overweight or obese. Obesity alone currently costs Australia $1.5 billion annually. Additionally obesity is a key risk factor for a range of chronic conditions such as diabetes, heart disease, stroke and certain cancers. These conditions are amongst the top causes of death and disability in Australia. The obesity rates have serious implications for Australia’s future physical and economic health.
Organisers of the National Obesity forum in Canberra will seek a commitment from key stakeholder groups in Australia to halt the rise of obesity by 2010 and halve childhood obesity and overweight by 2015.

Participants at the forum agreed on the declaration set out below.

Participants also agreed to lobby for obesity to become a national health priority and a condition to be covered by Medicare.

Together with my co-organisers from the Australian Health Policy Unit of Sydney University we will circulate the declaration to key organisations across Australia with the hope of getting a commitment.

The declaration states:

**Mission**
To reverse obesity and overweight in Australia

**Goal**
Prevent the further rise of obesity in Australia by 2010, and subsequently halve obesity and overweight in children by 2015.

**How?**
By engaging key stakeholders to advance healthy lifestyles for all Australians, in particular healthy eating and physical activity.
And, by achieving significant changes in physical environments, policies, products and services that support healthy eating and physical activity in adults and children, and reduce obesity promoting aspects of the environment.

**Why?**
Without action it is estimated that by 2020 half of Australia’s total population will be overweight or obese. Obesity is threatening Australia’s physical, social and economic health and is cause for alarm and urgent action.

The forum, at Parliament House in Canberra of more than 70 health and industry leaders agreed to collaborate more in the campaign to tackle the obesity epidemic in Australia.

The forum was attended by a diverse number of interest groups ranging from peak nutrition and diabetes organisations such as Diabetes Australia, Fitness Australia and the Oxford Health Alliance (UK), to McDonalds Australia and the Australian Association of National Advertisers.

The forum heard from Professor Stig Pramming of the Oxford Health Alliance who said 36 million people could be saved over the next 10 years if the world reduced the rate of chronic disease by 2%.

Prof Pramming said the present growth rate world wide of the problem was 17% a year over four main areas – diabetes, heart disease, chronic lung disorder and certain cancers.

Director of the International Diabetes Institute Professor Paul Zimmet said diabetes and obesity was already the biggest epidemic in human history.

“There are 40 million people in the world with HIV/Aids, but there are also 190 million people in the world with mainly type two diabetes,” Prof Zimmet said.

Based on the feedback we are planning to reconvene the forum late next year to monitor what was being achieved to meet the goals.

I am hoping more stakeholders can sign up to the declaration. I also hope this forum can act as a clearing house for ideas and action to combat obesity.

There’s no silver bullet. It will take time and a lot of hard work to turn around the statistics but we owe it to future generations to start now.

In the early stages of this century we do not have a lot of time to halt this crisis and start saving young and older lives.

May I place on record my thanks to Hon Tony Abbott Minister for Health for opening the forum and also to Senator Rod Kemp Minister for Sport for addressing the forum. A special thank you to our sponsors Novo Nordisk for their support, especially David Albachten, General Manager Australia, Roger Moore, General Manager for Australasia who flew down from Tokyo and Clive Bennett in Sydney. Finally another thank you to Professor Stig Pramming for flying from the UK to share his wisdom with us. That wisdom being by working together we can make a difference.

**Senate adjourned at 11.40 pm**